Vol. III

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1929

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vs.

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I. C. C. No. A-281, and that they are currently lower than the lowest combination over Cairo-Gale-Thebes, Illinois, by the use of E. B. Boyd's Tariff No. 506-G, I. C. C. No. A-1438. Nevertheless, the Western Trunk Lines have continued to receive their full proportional rates between Chicago and Milwaukee Territories and Cairo-Gale-Thebes, Illinois, or East St. Louis, Illinois, on and after October 7, 1913, in division of the joint through rates that were established on the differential basis and consequently much lower than the lowest combination, or, more than they received when no joint through rates were in effect to and from Arkansas local points in division of the lowest combination then in effect by the use of the Tariffs referred to (Tr. 5213).

Summing up the situation, it is the contention of the Southwestern Lines that on traffic moving between Chicago Territory and points in Arkansas interchanged at East St. Louis, Ilinois, that the Western Trunk Lines should receive as their division 65 per cent of the specifics currently published between Chicago Territory and Cairo-Gale-Thebes, Illinois, as published in Illinois Freight Associa- [fol. 907] tion Division Sheet No. 5, which has been made a part of this record. Because the Western Trunk Lines may contend that the present proportional rates should be cancelled because joint through rates are in effect, and that they may, therefore, be termed only "paper rates", I have shown on my Exhibit No. A-152, the current local rates between Chicago Territory in Illinois and Cairo-Gale-Thebes, Illinois, to and from eighteen representative points in Illinois having a population of 10,000 or more. I have shown the average of the ten class rates between each point in Illinois selected and Cairo-Gale-Thebes, Illinois, and the total average between all of the Illinois points and Cairo-Gale-Thebes, Illinois, or 39.3 cents per 100 pounds. I have also shown on this Exhibit the local rates currently in effect between Cairo-Gale-Thebes, Illinois, and Little Rock traffic by use of these averages as factors, beings about a division of 33 per cent for the Western Trunk Lines between Chicago Territory in Illinois and Cairo-Gale-Thebes, Illinois, and 67 per cent for the Southwestern Lines between Cairo-Gale-Thebes, Illinois, and Little Rock, Arkan-

sas. Subdividing the 33 per cent via East St. Louis on agreed per cents or 65 per cent to the Western Trunk Lines north of East St. Louis and 35 per cent south thereof, brings about a division of 21½ per cent between Chicago Territory and East St. Louis, Illinois, on Chicago Territory-Little Rock, Arkansas, traffic, via East St. Louis, Illinois (Tr. 5214-5215).

(The statement described by the Witness was thereupon received in evidence as Exhibit A-152.)

[fol. 908] My Exhibit No. A-153 shows what the Western Trunk Lines would receive as specifics on each class in cents per 100 pounds on the basis of 65 per cent between Chicago Territory and East St. Louis, Illinois, of the specifics published in Illinois Freight Association Division Sheet No. 5 between Chicago Territory in Illinois and Cairo-Gale-Thebes, Illinois. This is reflected in the first block. The average of the ten classes is 21.4 cents per 100 pounds to the Western Trunk Lines on that basis. I have next shown on this Exhibit the combinations over East St. Louis, Illinois, by the use of the current local rates between Chicago Territory and Cairo-Gale-Thebes, Illinois, also East St. Louis, Illinois, and the local rates between the latter points and Little Rock, Arkansas. This clearly demonstrates that the lowest combination of local rates currently is over Cairo-Gale-Thebes, Illinois, so that whatever may be said of the proportional rates, the condition by the use of the local rates brings about a similar situation in that the combination of the local rates over Cairo-Gale-Thebes, Illinois, would make the lowest through charge the same as I have previously pointed out would be the result by the use of the proportional rates. Applying the division of 21½ per cent for the Western Trunk Lines between Chicago Territory and East St. Louis, Illinois, to the through rates between Chicago Territory and Little Rock, Arkansas, would result in the Western Trunk Lines receiving between Chicago Territory in Illinois and East St. Louis, Illinois, the specifics in cents per hundred pounds on each class as shown in the third block of this Exhibit, which it will be observed justifies the basis for the divisions proposed between Chicago Territory and Little Rock, Arkansas, as indicated in the first block of this Exhibit. The average of the specifics in the third block is 22.1 cents

per 100 pounds as compared with the average of the pro-
[fol. 909] posed specifics in the first block of 21.4 cents per 100 pounds. This basis seems to be sound, because in the absence of joint through rates and in the absence of proportional rates between Chicago Territory and Cairo-Gales-Thebes, or East St. Louis, Illinois, the lowest combination of local rates would be over Cairo-Gale-Thebes, Illinois, and the carriers north between Chicago Territory and East St. Louis, Illinois, would receive their agreed division of the local rates between Chicago territory and Cairo-Gale-Thebes, Illinois, for their service between Chicago Territory and East St. Louis, Illinois, and the Western Trunk Lines cannot expect to receive a higher division than proposed in division of the joint through rates that are decidedly less than the lowest possible combination (Tr. 5215-5216-5217).

The Southwestern Lines maintain that the Western Trunk Lines are not entitled to any greater division in cents per hundred pounds on each of the classes than shown in the first block of this Exhibit as proposed, namely the following specifics between Chicago Territory and East St. Louis, Illinois: Classes 1, 41.6; 2, 35.1; 3, 29.2; 4, 21.1; 5, 15.9; A, 16.6; B, 15.9; C, 14.6; D, 12.7, and E, 11.4; because, as previously pointed out in my testimony, all of the circumstances related justify no greater allowance to the Western Trunk Lines in division of joint through rates as currently in effect. Via Cairo-Gale-Thebes, Illinois, the Western Trunk Lines are not entitled to the present specifics published in Illinois Freight Association Division Sheet No. 5, because they practically equal their full proportional rates. Because the result of these divisions forces the entire shrink between the lowest combination that would obtain and the present through rates made by the use of differentials that are practically 50 per cent
[fol. 910] lower than the current proportional rates, the Southwestern Lines maintain that the divisions between Chicago Territory in Illinois and Cairo-Gale-Thebes, Illinois, should be as much more in cents per hundred pounds on each class than proposed via East St. Louis, Illinois, as the spread in the local rates between Chicago, Illinois, and Cairo-Gale-Thebes, Illinois, as compared with East St. Louis, Illinois, which can be readily determined from Block No. 2 of this Exhibit. In other words, the spread in the

local class rates between Chicago, Illinois, and Cairo-Gale-Thebes, Illinois, as compared with the local rates between Chicago, Illinois, and East St. Louis, Illinois, is as follows: Classes 1, 9-1/2; a, 8; 3, 6-1/2; 4, 5; 5, 3-1/2; A, 4; B, 3-1/2; C, 3; D, 2; E, 1-1/2 (Tr. 5217-5218).

This will result in the Western Trunk Lines receiving between Chicago Territory in Illinois and Cairo-Gale-Thebes, Illinois, the specifics in cents per hundred pounds as shown in the last block of this Exhibit. We also think this basis is sound because the divisions via East St. Louis, Illinois, should not exceed the spread in their local rates. I have previously pointed out a number of times that under the present divisional arrangements, the Western Trunk Lines in division of through commodity rates receive the same class specifics as in division of a through class rate, because of the lack of corresponding commodity specifics in Illinois Freight Association Division Sheet No. 5. It is the thought of the Southwestern Lines that the proper solution is to establish through percentages to apply on all traffic. Percentages can be arrived at in the manner indicated previously by the use of the average of the specifics on the ten classes as proposed and as shown specifically in the first block of this Sheet for the Western Trunk Lines, and the balance of the through class rates for the South-[fol. 911] western Lines, the average of the ten classes to be used and percentages arrived at on that basis to and from all points in the State of Arkansas and points in Chicago Territory in Illinois. This will result in the Western Trunk Lines receiving practically the same specifics on each class regardless of the origin or destination in Arkansas as proposed by the Southwestern Lines via East St. Louis, and the same method should be followed via Cairo-Gale-Thebes, Illinois, by the use of the proposed specifics for the Western Trunk Lines shown in the last block of this Exhibit. The result would be that percentages would be in effect between Chicago Territory and all Arkansas points via East St. Louis on a percentage basis, and all traffic should be divided on those percentages regardless, in my opinion, of how made. Some of the lines are very insistent that no line should receive in excess of its current local rate as their division. The basis I have proposed may in some instances have that result, but it is a very difficult matter for the Accounting Departments under the

present methods to check up these situations and in the end more money would be spent in attempting to make a thorough check of this kind than the difference in the earnings would warrant, and further it would continue indefinitely. The executives of all lines for the past several days have interested themselves in establishing through percentages in division of joint through rates and they have gone even further by suggesting simplified per-cent-ges; however, if a clause is inserted in the division sheet limiting the lines to their local rates as maxima, it destroys the fabric of the division sheet, because the carriers would be better off with specifics than percentages. I am not opposed to the principle of locals as maxima, but I am opposed to the amount of work it involves on the ac- [fol. 912] counting departments and inflicting on the accounting departments arrangements that are difficult and sometimes impossible to observe or check. For reasons given I am opopsed to a provision limiting the lines to locas*l* as maxima (Tr. 5218-5219-5220).

In Exhibit A-124 the division of the first class rate from Chicago Territory to Little Rock is 56 cents on the lines north via St. Louis. In Exhibit A-153 I am proposing a division for the lines north of 41.6 cents out of the first class rate. At the present time the rate is divided on the basis of 56 cents to the lines north. Fifty-six cents is 65% of the current divisions between Cairo, Gale and Thebes and Chicago territory. I don't think the relationship to the local rates is wrong because the lines north get 70% of their local rate and the lines south 84% of their local rate. I don't think, if you consider the way these joint through charges were originally constructed by the use of these proportional rates over Cairo-Gale-Thebes and the fact that at that time when there were no joint through rates that the Western Trunk Lines did receive 65 percent of these proportional rates between Chicago and Cairo and Gale and Thebes for the haul to East St. Louis and when you adopt joint through rates that are less than the combination that formerly existed, that the Western Trunk Lines should not have received any more revenue than they formerly did. That is notwithstanding the fact that under the divisions the Western Trunk Lines are getting 70 percent of their local rate and the Southwestern Lines 34 percent. The division of 41.6 cents which I proposed would result

in a division north of East St. Louis to Chicago of earnings amounting to 52 per cent of the local rate (Tr. 5220-5221-5222).

[fol. 913] I think that a straight rate pro rate would be wrong. I think it is wrong for this reason, that if there were no joint through rates, there never were any proportional rates in effect, it is shown here by this last exhibit that your lowest combination of local rates would be over Cairo. In that event the lines north of East St. Louis would receive 65 per cent of that local rate. That would result in a division of 21½¢. That is 65 per cent of the local rate using the average. I omitted on Exhibit No. A-152 to include Joliet and Kankakee. That should have been included because of the population and it would have changed that percentage slightly. It would make it 21.6 per cent instead of 21.5 per cent. It might have amounted to more (Tr. 5222-5223).

Examiner Disque here inquired whether or not divisions based upon the use of a formula allowing the lines south of Kansas City a mile and a third or a mile and a quarter or a mile and a half for every mile north of Kansas City would increase the proposed division. The witness replied that he did not know (Tr. 5223).

The Witness: I think you can't lose sight of the basis that is used in making this general level of rates.

Mr. Muckley: This is all classes you have been talking about, isn't it, Mr. Sickel?

A. Well, the class rates reflect as I have always understood the level of the classes reflect the general conditions of each territory.

By Exam. Disque:

Q. Before we decide this case the Commission may prescribe some new class rates for the Southwest; then what will we do with your proposal?

A. Well, I don't think that everytime they change the class rates on either side of the Mississippi River that that necessarily calls for a revision in these divisions. We would keep continualy changing divisions and that is one of our troubles.

[fol. 914] Exam. Disque: The best thing to do then would be to say that a mile north of St. Louis is equal to a mile and a half and,—or a mile and a third south.

Mr. Towner: I just had that figured out, any and all traffic between Little Rock, Arkansas, and Chicago, allowing a mile and a half south of East St. Louis for a mile north would result in divisions to the northern lines of 35 per cent of the through rate, slightly more than the rate pro-rate.

Mr. Larimore: Well, I might state right now that in as much as traffic density between Chicago and St. Louis is probably 5 times more than that between St. Louis and Little Rock I am not interested in your mileage pro-rate. It sounds funny to me when you talke about a mileage pro-rate with traffic density five times as high as the other.

Exam. Disque: It looks to me like a simple way for the Commission to settle this is to say how much a mile north is equal to a mile south.

A. What was that divisions, 35 per cent, Mr. Towner?

Mr. Towner: 35 per cent.

Exam. Disque: And a mile and a quarter or a mile and a half, and let the chips fall where they may.

Mr. Muckley: Well, I think those constructive mileages should be based on the record and the traffic density.

Exam. Disque: On the record (Tr. 5224-5225).

The Witness (continuing): These rates in Arkansas are made via St. Louis and East St. Louis, they scale upward as distance increases southward. Now if you divide these rates on a mileage pro-rate you are going to have a fluctuating pro-rate north of East St. Louis although the pro-[fol. 915] portion south is constant. Now in spreading those divisions, have some science in making divisions and I don't think myself that the mileage pro-rate is very scientific. If you take those things into consideration (Tr. 5225).

(Here followed a discussion between Attorney Larimore and Attorney Towner with reference to the local basis of rates imposed on the Western Trunk Line Territory.)

The Witness (continuing): With respect to traffic between points in Milwaukee and Minneapolis-St. Paul Territories, including Chicago Territory west of the Mississippi River, the Southwestern Lines believe they should be ac-

corded Chicago revenue on the basis of my proposal via either East St. Louis or Cairo-Gale-Thebes, Illinois. I have previously pointed out in my testimony that originally Milwaukee Territory carried a substantial differential over Chicago Territory, namely 6 cents per 100 pounds on first class and relatively lower spreads on the other classes, whereas, effective June 1, 1898, the original Milwaukee differentials were wiped out and the reduced Chicago differentials substituted, so that on and after June 1, 1898, Milwaukee enjoyed the same joint through rates to and from points in Arkansas as Chicago Territory. I also pointed out that because of the elimination of the original Milwaukee differentials and the substitution of the reduced Chicago differentials a corresponding reduction was made in the differentials to and from Minneapolis-St. Paul territory, so that on and after June 1, 1898, Minneapolis-St. Paul Territory maintained the same spread in their differentials over Milwaukee Territory as prior to June 1, 1898. The reduction in the differentials amounted at that time to 15 cents per 100 pounds on first-class with relative reductions on the other classes. This is brought out conclusively by my Exhibit No. A-141, which shows the differentials [fol. 916] over the base point, East St. Louis, Illinois, to and from Chicago, Milwaukee and Minneapolis-St. Paul Territories beginning with October 1, 1896, up to the current date. The Southwestern Lines on and after June 1, 1898, were rightfully entitled to Chicago revenue, because prior to June 1, 1898, the Southwestern Lines did receive Chicago revenue and with the el-mination of the Milwaukee differentials with corresponding reductions to and from Minneapolis-St. Paul Territory, the Southwestern Lines, as pointed out repeatedly in my testimony, continued to allow the Western Trunk Lines the same divisions as they received prior to June 1, 1898, and as a result the Southwestern Lines assumed the entire shrink by reason of the elimination and corresponding reductions in the differentials. The proposal of the Southwestern Lines is that on traffic to or from points in Milwaukee and Minneapolis-St. Paul territories, also Chicago Territory west of the Mississippi River that the Southwestern Lines should be accorded the same revenue as proposed to and from Chicago Territory in Illinois. It follows, of course, that through percentages ought to be established on the basis previously indicated,

so that all joint through rates would be divided on through percentages to and from all points in Arkansas, both class and commodity rates. This will eliminate all of the controversies that are continually confronting the carriers and dragging along indefinitely before divisions are finally agreed upon and then only to a very limited extent (Tr. 5226-5227-5228).

On traffic to or from points in Davenport and Des Moines Territories via East St. Louis, Illinois, and also via Cairo-Gale-Thebes, Illinois, the Southwestern Lines should similarly receive Chicago revenue as proposed, and through per centages arrived at in the manner previously indicated, [fol. 917] and via Kansas City I have already stated that the present basis in my opinion is sound except with possibly some slight modification. What I have said with respect to Davenport and Des Moines Territories is also applicable to Omaha Territory via East St. Louis, also via Cairo-Gale-Thebes, Illinois, that is, the Southwestern Lines should receive Chicago revenue using as a basis the proposal I have made, and via Kansas City I have already pointed out what, in my judgment, should be done (Tr. 5228-5229).

On traffic to or from points in Estherville Territory, the Southwestern Lines should also receive Chicago revenue via East St. Louis, Illinois, also via Cairo-Gale-Theges, Illinois, and via Kansas City I have already stated the position of the Southwestern Lines. In further proof that the Southwestern Lines should receive Chicago Territory revenue on traffic to and from points in Milwaukee and Minneapolis-St. Paul Territories, also other Territories west of the Mississippi River previously mentioned, I desire to submit my Exhibit No. A-154, which comprises two sheets and is a statement of the local and proportional rates between Chicago, Illinois, Milwaukee, Wisconsin, and Minneapolis-St. Paul, Minnesota, on the one hand, and East St. Louis, Cairo-Gale-Thebes Illinois, Evansville, Indiana, New Albany, Jeffersonville, Indiana, Louisville, Kentucky, and Cincinnati, Ohio, also Mississippi Valley points, namely Memphis, Tennessee, Vicksburg, Mississippi, and New Orleans, Louisiana. It will be observed that Milwaukee, Wisconsin, in all cases, enjoys a substantial spread over Chicago, Illinois, in the through rates as shown, both local and proportional, except in some cases, there are no propor-

tional rates. However, the flat rates in all cases are higher to and from Milwaukee, Wisconsin, as to or from Chicago, Illinois, and similarly Minneapolis-St. Paul, Minnesota. [fol. 918] This condition does not prevail, as repeatedly pointed out, on traffic to or from points in Arkansas, Louisiana and Texas, Milwaukee Territory enjoying the same joint through rates to and from Arkansas, also Louisiana and Texas, as Chicago Territory. Regardless of what may have brought about the elimination of the Milwaukee differentials with corresponding reductions to and from Minneapolis-St. Paul Territory, on traffic to or from Arkansas, also Louisiana and Texas, it follows that if the Western Trunk Lines are not satisfied with the proposal as made by the Southwestern Lines in this proceeding, the remedy is not in the divisions insofar as the Southwestern Lines are concerned (Tr. 5229-5230).

In further proof that the Southwestern Lines are entitled to Chicago revenue on traffic to or from Milwaukee and Minneapolis-St. Paul Territories, I desire to point out that on traffic to and from points in the original so-called Trans-Missouri Territory which embraces the States of Southwest Missouri, Kansas, Nebraska, Oklahoma, Colorado and Utah, the lines west of the Missouri River have always received Chicago revenue, although the rates to and from Milwaukee are on the same basis as to and from Chicago. I also desire to point out that on traffic handled via the East St. Louis gateway in connection with some of the Southwestern Lines, the bridge tolls of the Terminal Railroad Association of St. Louis, Missouri, in all cases at the present time are assumed by such Southwestern Lines, so that the earnings of the Southwestern Lines as reflected in the various exhibits that I have presented, do not reflect their actual earnings in all cases, because where the bridge tolls are paid by the Southwestern Lines their earnings are as much less than shown on the Exhibits as are the bridge tolls that are paid. This is in both directions (Tr. 5230-5231).

(The statements described by the Witness were there-[fol. 919] upon received in evidence as Exhibits A-153, and A-154.)

[fol. 920] That is true via the St. Louis gateway. Via East St. Louis when the traffic is handled via the Missouri

Pacific or the Cotton Belt over our east side lines it is not true, but on less carload traffic that breaks bulk at St. Louis it is true. There we have really a double bridge service. For example, take a shipment from Chicago to Arkansas. The traffic is brought into St. Louis to the St. Louis freight terminal station and has to be unloaded, reassembled and reloaded and taken back over the River, but on carload traffic in connection with the Missouri Pacific or the Cotton Belt the interchange is on the east side and there is no bridge toll involved. The majority of our Chicago traffic is handled on the east side except perishables. This is not necessarily to avoid the charge. The Missouri Pacific and Cotton Belt handle all commodity carload freight over their east side lines. Perishables are handled by the west side because of refrigeration on the west bank. The L. C. L. traffic is taken back over the Illinois division of the Missouri Pacific or the Cotton Belt. The principal reason that that does not go on our west side lines is because of the anomalous condition of that territory over there, and that the trains are made up on the east side. It is more convenient to handle it on the east side. It does not all cross the river. That would not be the case of through merchandise cars. It is less difficult from an operating standpoint to handle it that way. I think the bridge tolls ought to be taken into consideration. I have always thought that. I did not think it was proper that the Southwestern Lines should be required to assume bridge tolls in both directions. The Division sheets on this Southwestern Lines traffic read via St. Louis, Mo.-East St. Louis, Ill. We have not agreed to standing the bridge tolls in both [fol. 921] directions. That has just simply been forced upon us. They did attempt, some years ago, to get the east side lines to take care of the bridge tolls on east side business, but all the cars were turned back to us and the terminal at St. Louis and East St. Louis were congested as a result (Tr. 5231-5232-5234).

My next Exhibit No. A-155, covers divisions on potatoes between several Minnesota points and Little Rock, Arkansas, *via* East St. Louis, Illinois. The Southwestern Lines currently receive the same revenue as to or from Milwaukee, Wisconsin. The rates from Isanti, Minneosta are made on the basis of a specific differential over Milwaukee, Wisconsin, of 8 cents, and the Milwaukee differential over

the commodity rates between East St. Louis and Little Rock is the Class "C" differential. In the division of these rates, it will be observed that the Western Trunk Lines receive 30½ cents per 100 pounds as a result of the Southwestern Lines receiving Milwaukee revenue. This is the local rate from Isanti, Minnesota, to East St. Louis, Illinois, as published in E. B. Boyd's Tariff No. 81-D, I. C. C. No. A-1512, whereas the Southwestern Lines are receiving 11½ cents per 100 pounds less than their commodity local rate from East St. Louis to Little Rock, Arkansas. The Southwestern Lines are making the same shrink in cents per 100 pounds below their local commodity rate as they shrink in division of a through class rate from Milwaukee, so that in division of through rates on potatoes from Isanti, Minnesota, the Western Trunk Lines receive their full local rate to East St. Louis, and the Southwestern Lines do all of the shrinking. This is also true of the divisions on potatoes from Cloquet, Minnesota, except that the Western Trunk Lines in division of the through rates receive 3 cents per 100 pounds less than their local rates between Cloquet, Minnesota, and East St. Louis, Illinois, and the Southwest-
[fol. 922] ern Lines receive 11½ cents less than their local rate from East St. Louis to Little Rock, bringing out the point that I have repeatedly made that it is not proper that the Southwestern Lines should make the same shrink in division below their local commodity rates as they shrink in connection with a higher through class rate. Naturally, the through commodity rates are lower than the through class rates, otherwise there would be no occasion to publish through commodity rates (Tr. 5234-5235).

(The statement described by the Witness was thereupon received in evidence as Exhibit A-155.)

[fol. 923] My Exhibit No. A-156, covers divisions on cheese, carload, from Wisconsin Group points, including Milwaukee, Wisconsin, to Little Rock, Arkansas, via East St. Louis, Illinois. The rates as shown on this Exhibit were published in compliance with order of the Interstate Commerce Commission under Docket No. 15880, and are published in F. A. Leland's Tariff No. 45-P, I. C. C. No. 1644, effective June 5, 1924. It will be observed that the specific through rates from the Wisconsin Group to Little Rock, which includes points in the so-called Milwaukee Ter-

ritory and north, is $1.33 per 100 pounds, from Chicago Group the rate is $1.15 per 100 pounds, and from St. Louis, Missouri-East St. Louis, Illinois, 96 cents per 100 pounds. It will be observed from the third block of this Sheet that the Milwaukee current third class differential over St. Louis, Mo.-East St. Louis, Ill. is 18½ cents, the same as the Chicago current third class differential; however, the Interstate Commerce Commission have fixed the Wisconsin Group, which includes Milwaukee, Wis., on cheese, carload, on a differential basis higher than St. Louis of 37 cents per 100 pounds, or in other words, the through rates on cheese from the Wisconsin Group as fixed by the Interstate Commerce Commission are practically the same as the present Minneapolis-St. Paul third class differential over St. Louis, Mo.-East St. Louis, Ill. I want to call particular attention to the fact that the rates from the Wisconsin Group on cheese as fixed by the Commission, which includes Milwaukee, Wis., are 18 cents per 100 pounds higher than the rates from Chicago Group. These are Commission made rates. This further brings out the point that if the Western Trunk Lines maintain that the rates to and from Milwaukee Territory should be on the same basis as to and from Chicago Territory, that the Southwestern Lines are entitled to Chi-
[fol. 924] cago revenue, although the Interstate Commerce Commission, in their judgment, have made rates from Milwaukee, Wis., 18 cents per 100 pounds higher than the rates fixed by the Commission from Chicago Territory. The divisions on the present basis, it will be observed, allow the Western Trunk Lines 1 cent per 100 pounds less than their proportional rate from Milwaukee Territory, and the present divisions allow the Southwestern Lines 9½ cents per 100 pounds less than the commodity rate from St. Louis, Mo.-East St. Louis, Ill., to Little Rock, Ark. (Tr. 5235-5236-5237).

(The statement described by the Witness was thereupon received in evidence as Exhibit A-156.)

I now desire to take up the matter of divisions between points in Western Trunk Line Territory and Texas via St. Louis, Mo.-East St. Louis, Illinois, also via the Cairo-Gale-Thebes Gateways. My Exhibit No. A-157 is a map showing the territorial limits of Chicago, Milwaukee, Fox River, Omaha-Davenport, St. Louis and Kansas City Ter-

ritories, applicable on Texas traffic, also Louisiana traffic, which reflect the rate groups, and upon which divisions are largely based (Tr. 5238).

(The statement described by the Witness was thereupon received in evidence as Exhibit A-157.)

[fol. 925] By Mr. Towner:

Q. These groups on A-157 apply through St. Louis-East St. Louis via Cairo-Gale-Thebes.

A. They also apply via Kansas City.

Q. But they are the same via both?

A. Yes, sir. My Exhibit No. A-158 is presented and covers the situation with respect to divisions between Chicago Territory east of the Mississippi River and Texas common points via St. Louis Mo.-East St. Louis, Ill. I have shown in Block "A" the current joint through rates between Chicago Territory referred to and Texas common points, and how constructed, also the divisions currently in effect, which are 20 percent south thereof. These divisions were published originally in Southwestern Railway and Steamship Rate Committee Division Sheet No. 2, effective December 1, 1892, and have continued since that time (Tr. 5238-5239).

It will be observed that the Western Trunk Lines are receiving divisions in cents per 100 pounds on each class considerably in excess of the differentials used in the construction of the through rates over the base point, East St. Louis, and that the divisions received by the Southwestern Lines are as much less than their local rates between East St. Louis, Illinois, or St. Louis, Mo., and Texas common points as the spread between the divisions received by the Western Trunk Lines and the differentials. When the divisions were originally arranged, effective December 1, 1892, the first-class rate for example, from St. Louis, Mo., and East St. Louis, Ill., to Texas common points was $1.33, and the rates to and from Chicago were made on the differential scale of 20 cents. Subsequently the rates between St. Louis, East St. Louis and Texas Common points were advanced from $1.33 to $1.37, and later to $1.47, with relative advances in the other classes. The rates to and from [fol. 926] Chicago Territory, however, continued to be

made differentially by the use of the 20 cent differential scale, so that the Western Trunk Lines participated in the advance in the rates that was made from St. Louis, there being no spread in the differentials. The $1.47 scale between St. Louis, Mo., and East St. Louis, Ill., and Texas common points continued to the period of Federal control, following which there were two general advances and one general reduction (Tr. 5239).

There was no obligation on the part of the Southwestern Lines to accord the Western Trunk Lines any part of the advances that were made in the rates between St. Louis, East St. Louis and Texas common points; however, under the percentage arrangement, the Western Trunk Lines automatically received an increase. The Southwestern Lines maintain there should be no change in the percentages mentioned between Chicago Territory east of the Mississippi River and Texas common points via St. Louis, Mo.-East St. Louis, Ill., as the divisions are justified by an analysis of the situation. It will be observed from my Exhibit No. A-157 which is a map showing the boundaries of Chicago Territory, that the territory extends from northern Illinois immediately north of Chicago and westward to a short distance beyond East St. Louis and eastward from the latter point along the line immediately north of the lines of the B. & O. and Southern Rys. to the Illinois-Indiana state line, and verging a little beyond that line, proceeding in a northernly direction towards Chicago. To and from all of this territory the Western Trunk Lines receive 20 percent via St. Louis, Mo.-East St. Louis, Ill., in division of the rates to and from Texas common point Territory, which embraces the greater part of the state of Texas, to or from which there is any appreciable movement [fol. 927] of traffic. I have accordingly selected 18 representative points having a population of 10,000 or more located in Chicago Territory in Illinois that I believe are representative, because of their geographical location, and for the most part important as receiving and shipping points. There is shown the current local rates between those points and East St. Louis, Ill.-St. Louis, Mo. as published in Agent B. T. Jones' Tariff No. 256-B, I. C. C. No. 1481, effective February 1st, 1924, opposite which the average of the 10 class rates is shown between each point and East

St. Louis, Ill.-St. Louis, Mo., and the average of the 18 points which is 33.5 cents per 100 pounds (Tr. 5240-5241).

The average of the 10 class local rates between East St. Louis, Ill., St. Louis, Mo., and Texas common points is $1.276. Using these averages to arrive at percentages the result shows that the Western Trunk Lines would receive 20.8 percent and the Southwestern Lines 79.2 percent via East St. Louis, Ill.-St. Louis, Mo., which practically justifies the current division of 20 percent that has been in effect and is still in effect for the Western Trunk Lines. I have also shown the distances between the Illinois points referred to and East St. Louis, Ill., the average of which is 209 miles. I have also shown mileages between East St. Louis, Ill., and Texas points located in Texas common point Territory having a population of 10,000 or more. The average mileage between East St. Louis and Texas common points referred to is 773 miles. Applying the average of 209 miles for the Western Trunk Lines and the average for the Western Trunk Lines and 78.7 percent for the Southwestern Lines (Tr. 5241).

I have also taken the average of 209 miles for the Western Trunk Lines which is the average mileage between Illi-
[fol. 928] nois points in Chicago Territory and East St. Louis, Ill., having a population of 10,000 or more and the average of 803 miles for the Southwestern Lines between East St. Louis and Texas common points as shown in Mr. Parson's Exhibit No. A-77 covering 281 points located in Texas common point Territory, and it will be observed that the Western Trunk Lines would receive a division of 20.6 percent and the Southwestern Lines 79.4 percent. I might mention local rates between Illinois points and East St. Louis, Ill. carry the 5 percent advance made some years ago and also a 40 percent advance, so that eliminating those two features it would slightly change their percent on a rate prorate. These demonstrations in the opinion of the Southwestern Lines justify a division for the Western Trunk Lines no higher than the present division of 20 percent. Taking into consideration that Texas common point Territory is enormous, and as compared with Chicago Territory, the division of 20 per cent received by the Western Trunk Lines is in the opinion of the Southwestern Lines somewhat in excess of what the Western Trunk Lines ought

to receive. Consideration must also be taken into account that a considerable volume of the traffic handled between Chicago Territory and Texas common points involves the expense of bridge tolls between St. Louis, Mo., and East St. Louis, Ill., in which the Western Trunk Lines are not participating, and which is assumed entirely out of the division of 80 percent received by the Southwestern Lines. A considerable volume of the traffic crosses the Mississippi River at St. Louis on the inbound movement to and from Texas, and again crosses the Mississippi River on the outbound movement. I refer particularly to traffic handled over our East Side Lines all of which expense is taken care of out of the division of 80 percent received by the Southwestern Lines. This further in the opinion of the South-
[fol. 929] western Lines is justification for some modification in the division of 20 percent to a somewhat lower basis for the Western Trunk Lines (Tr. 5242-5243).

(The statement described by the Witness was thereupon received in evidence as Exhibit A-158.)

[fol. 930] I failed to make a statement to the examiner that I have overlooked including Joilet and Kankakee. In these lists are points in Illinois having a population of 10,000 or more. However, I am working out with the inclusion of those points, and on a rate prorate it would make it 20.9 per cent instead of 8 per cent and on the mileages it would make 30.9 per cent where I now have shown 20.6 per cent, and 21.6 per cent where I now have shown 21.3 per cent. It makes a slight variation there (Tr. 5243-5244).

Block "B" on Exhibit A-158 shows that the revenue over St. Louis is divided on practically a mileage pro rate by using those representative points and the average mileage. It is also practically on a rate prorate by using those points. That does not necessarily indicate that the relative rate level north and south of East St. Louis is substantially the same. It merely reflects a rate prorate by the use of the current rates as they are. The payment of the bridge tolls at St. Louis is the same with respect to this traffic as that which I have formerly treated (Tr. 5244).

There is an arrangement at East St. Louis whereby the traffic does not cross the River, where on the northbound

business the northern lines absorb the switching charge which is $4.95 per car currently and on southbound the Southwestern Lines absorb it. That is a reciprocal arrangement entered into some years ago when the Illinois part of our line was built. That refers, though, only to the Missouri Pacific and the Cotton Belt. That would not be true of the M. K. T., Frisco, or the Rock Island (Tr. 5245).

The mileages shown on this Exhibit are those shown on Mr. Parsons' Exhibit A-77. There may be one or two points that are not included in Mr. Parsons' exhibit. In that case, of course, I worked out the shortest mileage I could find. Mr. Parsons took an average of 803 miles for [fol. 931] 281 Texas points. I have shown in the next example 773 miles by taking the points in Texas having a population of 10,000 or more only. The mileage is the direct short lines (Tr. 5245-5246).

The distance tables of the various lines show the distance from East St. Louis to these various points in Texas. I have not attempted to make any comparison with the distance from St. Louis (Tr. 5246).

My Exhibit No. A-159 covers the divisions between Chicago Territory east of the Mississippi River and Texas common points via Cairo-Gale-Thebes, Ill. on which I have shown the current through rates and the differentials observed in their construction over the base point, East St. Louis, and there is also shown the current divisions which are 22 percent for the Western Trunk Lines and 78 percent for the Southwestern Lines, resulting in the specifics on each class as shown for the two groups of lines. The local rates between Cairo-Gale-Thebes, Ill. and Texas common points are the same as the local rates between East St. Louis, Ill.-St. Louis, Mo. and Texas common points, so that by reason of the division of 22 per cent the Southwestern Lines on traffic interchanged at Cairo-Gale-Thebes, Ill. make a greater shrink below their local rates than on the traffic when interchanged at St. Louis, Mo.-East St. Louis, Ill. I have also shown the local rates between representative points in Illinois located in Chicago Territory having a population of 10,000 or more and Cairo-Gale-Thebes and opposite each station the average of the 10 classes has been shown, and the total average of all the stations which is 39.3 cents per 100 pounds. I have also shown the average of the

10 class rates between Cairo-Gale-Thebes, Ill. and Texas common points which is $1.276. Using these averages as [fol. 932] factors the Western Trunk Lines would receive 23.5 percent and the Southwestern Lines 76.5 percent. Taking into consideration the extent of Texas common point Territory as compared with Chicago Territory east of the Mississippi River, the Southwestern Lines believe these demonstrations amply justify no greater allowance to the Western Trunk Lines than the current percentages. The same situation obtains via Cairo-Gale-Thebes, Ill. as previously pointed out via East St. Louis, in that the Western Trunk Lines have participated in the several advances made prior to government control in the rates between Cairo-Gale-Thebes, Ill. and Texas common points, although the Western Trunk Lines were not entitled to any part of those increases, but they did because percentages have been in effect which automatically brought about an increase in the proportions to the Western Trunk Lines (Tr. 5246-5247-5248).

"

(The statement described by the Witness was thereupon received in evidence as Exhibit A-159.)

[fol. 933] Exhibit A-159 shows that the Western Trunk Lines are getting slightly less than a rate prorate under the present percentages. I don't have the mileage figures on these points for the reason that as Cairo is not a very important gateway on Texas traffic, I didn't go to the trouble of figuring them out at all. This 23½ percent that you have shown here would be slightly less if you would eliminate that 5 per cent of that 40 per cent advance out of the total rate. The local rates take the 5 per cent advance (Tr. 5248).

Mr. Behrle: The 5 per cent advance was applied to the former scale which was in effect. That was thrown aside in favor of this scale to which the 40 per cent increase was applied.

A. Well, the 5 per cent advance was applied in connection with the proportional rate.

Q. You are comparing the local rate?

A. These are local rates, yes. These rates here were advanced 40 per cent.

By Mr. Towner:

Q. Yes, they were advanced 40 per cent, but not the 5, so I am advised.

The Witness: That would change that slightly (Tr. 5249).

The Witness: (continuing): My Exhibit No. A-160 covers divisions between Milwaukee Territory and Texas common points via St. Louis, Mo.-East St. Louis, Ill. on which there is also shown the current through rates and the differentials over the base point, East St. Louis used in their construction as well as the rates between Chicago Territory and Texas common points, and the differentials used in their construction. It will be noted that the joint through rates between Milwaukee Territory and Texas common points are the same as the rates between Chicago Territory and [fol. 934] Texas common points because the differentials between Milwaukee Territory over the base point, East St. Louis are the same as the differentials Chicago Territory on East St. Louis, Ill. (Tr. 5249).

It has already been pointed out by Mr. Dana that some years ago the differentials, Milwaukee Territory over the base point, East St. Louis, were greater than the differentials between Chicago Territory and East St. Louis, and that with the elimination of the original Milwaukee differentials, the Chicago differentials were substituted therefor, which brings about the same joint through rates between Milwaukee Territory and Texas common points as between Chicago Territory and Texas common points. The Southwestern Lines with the exception of the Santa Fe and Rock Island have no rails beyond Mississippi or Missouri River Crossings, therefore St. Louis, Mo.-East St. Louis, Ill. in connection with this exhibit reflects the gateway between the Western Trunk Lines and the Southwestern Lines. I have shown the divisions in Block "C" received by the Western Trunk Lines between Milwaukee Territory and St. Louis, Mo.-East St. Louis, Ill. which are 20 percent on Classes 1, 2 and 3, and 22 percent on the remaining classes, resulting in the specifics on each class for the Western Trunk Lines and for the Southwestern Lines as indicated on this exhibit. It will be noted on this exhibit that the local rates between Milwaukee, Wis. and East St. Louis, Ill. cur-

rently are higher than the local rates between Chicago, Ill. and East St. Louis, Ill. The spread reflecting substantially the original spread in the differentials, Milwaukee Territory over the base point, East St. Louis on Texas traffic, notwithstanding which Milwaukee Territory currently carries the same differential basis as Chicago Territory (Tr. 5250).

The Southwestern Lines are receiving the same revenue on Classes 1, 2 and 3 as they receive to and from Chicago Territory, and on the remaining classes the Southwestern [fol. 935] Lines receive less than they do on Chicago Territory traffic because of the greater division received by the Western Trunk Lines, which were published for the first time, according to my records on December 1, 1892, in Southwestern Railway and Steamship Rate Committee Division Sheet No. 2. Later divisions were published via Chicago and other Illinois junction points in Chicago Territory on the basis of 15 percent for the lines between points in Milwaukee Territory and Chicago, however, for a long time the Southwestern Lines continued the original basis via St. Louis, Mo.-East St. Louis, Ill. of 20 percent on Classes 1, 2 and 3, and 22 percent on the remaining classes, and they still continue to apply that basis, except that within recent years the Missouri Pacific R. R. on southbound traffic to points on the I-G. N., T. & P. Ry. and Gulf Coast Lines in connection with the latter route via Kinder, La. and with the Southern Pacific Texas Lines only via Lake Charles, and St. Louis Southwestern Ry. on southbound business to points on their own lines in Texas, and the St. L-S.F. Ry. on all Texas southbound traffic have made individual arrangements by which the lines between Milwaukee Territory and Chicago and other Chicago junction points are allowed 15 percent of the Milwaukee-Texas common point rates, and the remainder is subdivided between Chicago, Ill., and other Illinois junction points with the Southwestern Lines via East St. Louis, Ill.-St. Louis, Mo. on the basis of 20 percent for the Western Trunk Lines and 80 per cent for the Southwestern Lines. This brings about a total division for the Western Trunk Lines of 32 percent from Milwaukee Territory to East St. Louis on Texas common point traffic. This is reflected in Block "F", and it will be observed from Block "G" that on 7 of the 10 classes the Western Trunk

Lines receive in excess of their current local rates between [fol. 936] Milwaukee Territory and East St. Louis and would by far exceed these figures if locally they carried the same rates from Milwaukee as they do from Chicago, which is not the case as to the through rates, for example on fourth-class, the divisions received by the Western Trunk Lines would exceed their local rates from Chicago by 12 cents per 100 pounds. It will also be observed from Block "G" that on Classes 1, 2 and 3, the Western Trunk Lines currently receive slightly less than their current local rates between Milwaukee Territory and East St. Louis, however, they receive currently in excess of the local rates between Chicago and East St. Louis. I have also shown in Block "H" the extent to which the divisions received currently by the Western Trunk Lines are in excess of the current differentials from Milwaukee Territory (Tr. 5251-5252).

The position of the Southwestern Lines on traffic interchanged at East St. Louis, Ill.-St. Louis, Mo. is that the Southwestern Lines should be accorded the same revenue on traffic to or from points located within Milwaukee Territory as they receive currently on traffic to or from points located within Chicago Territory. I have pointed out previously and presented my Exhibit No. A-154 showing that the Western Trunk Lines maintain higher local and proportional rates between Milwaukee Territory and East St. Louis, Ill.-St. Louis, Mo., Ohio River Crossings and Mississippi Valley points than to or from Chicago, and if there is any justification for maintaining higher rates to and from Milwaukee Territory than to or from Chicago Territory, to and from Mississippi River and Ohio River Crossings and Mississippi Valley points, the same justification is apparent on traffic to or from points in the entire Southwest, however, this is a matter for the Western Trunk Lines [fol. 937] to decide, and not the Southwestern Lines, and if it is proper and necessary to maintain the present Chicago differentials to and from Milwaukee Territory, the Southwestern Lines feel that they should properly be accorded Chicago revenue or the same as they originally received to and from points in Arkansas and Louisiana, the latter state to be covered later in my testimony (Tr. 5253).

The fifteen percent north of Chicago shown in paragraph 5 of Exhibit A-150 is the same fifteen percent that Witness

Dana referred to in his testimony. It applies only as far as shown in my statement and applied only on traffic interchanged at Chicago and Chicago junctions. It does not apply to Peoria, for example. If the Northwestern were to originate traffic in Milwaukee Territory and deliver it to the intermediate carrier at Peoria the 15 percent would not accrue north of East St. Louis (Tr. 5253-5254).

It don't apply via Peoria. There are, however, a number of Northern Illinois junction points, that are listed in the individual division sheets issued by the Missouri Pacific via which the 15 percent does apply. They are all located in Northern Illinois, however. They are junction points. In other words, between the Chicago Northwestern, or the Chicago, Milwaukee & St. Paul, and Soo Line, and the line operating southward from those Illinois junctions to East St. Louis, like the C. & A. and the C. & E. I., the Wabash, the C. B. & Q. and the Illinois Central. The traffic does not have to move through Chicago in all cases (Tr. 5254).

That is not an allowance created by the Missouri Pacific to meet the competitive situation of the direct line through Chicago to Kansas City. It has been a moot question for a good many years and settlements were continually in dispute. A great many letters were passing back and forth repeatedly to lines north of Chicago and these other junctions naturally expect to receive the 15 percent and that [fol. 938] left the lines between Chicago and East St. Louis with only 5 percent, or 7 percent, as the case may be, and they would continually point those situations out to us, so we finally decided that in connection with several of the lines in Texas that would assist us, we would joint in this 15 percent on southbound traffic, and to that extent we have joined. The local rates between Milwaukee, Wisconsin, and East St. Louis would invariably exceed the division north of East St. Louis. It is only by adding the 15 percent north of Chicago to get 32 percent. That produces a situation where the Western Trunk Lines division exceeds its local rate. Wherever there is a 32 percent division or compounded division applied, why, I have shown here in Block "G" the extent to which the revenues north of East St. Louis are more or less, as the case may be, than the local rate (Tr. 5255).

As previously pointed out the lines west of the Missouri River in the so-called old Trans-Missouri Territory, involving the States of Kansas, Nebraska, Oklahoma, Colorado and Utah receive Chicago revenue, also Southwest Missouri. The Southwestern Lines believe there is no justification whatever, and there never has been any justification, as a matter of fact why the Southwestern Lines should accord the Western Trunk Lines a greater division on Milwaukee traffic than on Chicago traffic, on the other hand, we believe there is ample justification for the position here taken, that the Southwestern Lines at all times should have received Chicago revenue as they should at the present time. Missouri Pacific Division Bases Nos. 6357-C, 7298 and 7105 were presented by Mr. Behrle in his Exhibit No. A-8, which publishes divisions via Chicago thence East St. Louis referred to (Tr. 5256).

[fol. 939] The statement described by the Witness was thereupon received in evidence as Exhibit A-160.)

[fol. 940] My Exhibit No. A-161 comprises two sheets and covers the divisions between points located in Chicago Territory west of the Mississippi River as described in the heading and Texas common points via St. Louis, Mo.-East St. Louis, Ill. I have shown thereon the through rates and the differentials used in their construction over the base point, East St. Louis, Ill., which are the same as to and from Chicago Territory east of the Mississippi River (Tr. 5256-5257).

In Block "B" I have shown the divisions currently in effect and the specifics received by the Western Trunk Lines and the Southwestern Lines on each class to and from points in Chicago Territory west of the Mississippi River embraced in the description in the heading. In other words, points in Chicago Territory west of the Mississippi River in Iowa, east of the M. & St. L. R. R. and north of the C. R. I. & P. Ry. Grinnell to Davenport, Iowa, excluding the latter two points, in other words, points east of the central part of Iowa. It will be noted that the Western Trunk Lines receive 22 percent and the Southwestern Lines 78 percent. Although the same joint through rates are carried between Chicago Territory west of the Mississippi River as to and from Chicago Territory east of the Mississippi

River, the Western Trunk Lines receive greater divisions than to or from Chicago Territory east of the Mississippi River. The higher divisions received by the Western Trunk Lines were evidently arranged on the assumption that the hauls between Chicago Territory west of the Mississippi River in Eastern Iowa were greater than the hauls between Chicago Territory east of the Mississippi River and East St. Louis, Ill.-St. Louis, Mo., however, the hauls do not exceed those from northern Illinois points located in Chicago Territory east of the Mississippi River (Tr. 5257).

[fol. 941] In the opinion of the Southwestern Lines, the Western Trunk Lines should receive no greater divisions to and from points in Chicago Territory west of the Mississippi River located in Eastern Iowa than to and from points in Chicago Territory east of the Mississippi River, because their hauls are slightly greater. As compared with the scope of Texas common point Territory, there seems to be no justification for an allowance to the Western Trunk Lines of a division greater than 20 percent the same as to and from points located in Chicago Territory east of the Mississippi River. I have also shown in Block "E" the shrink that is being made currently by the Southwestern Lines in their division below their current local rates, which it will be observed are very substantial, particularly on fourth-class, fifth-class and Class "A", which almost equal the shrink on the higher classes (Tr. 5258).

Sheet No. 2 of this exhibit shows the through rates and the divisions between Chicago Territory west of the Mississippi River as described in the heading and Texas common points via St. Louis, Mo.-East St. Louis, Ill. This embraces points in Western Iowa west of the territory described in Sheet No. 1. It will be noted that the through rates are on the same basis as to and from Chicago Territory east of the Mississippi River made by the use of the same differentials over the base point, East St. Louis. It will be observed from Block "B" that the Western Trunk Lines receive 25 percent, in other words, five percentage points more than to and from Chicago Territory east of the Mississippi River. This division was undoubtedly arranged because of the greater mileage between points in Chicago Territory east of the Mississippi River and East St. Louis, Ill. (Tr. 5258-5259).

I have shown the milages from two representative points in Block "C". I have also shown the shrink as being made [fol. 942] currently by the Southwestern Lines in their divisions as compared with their local rates between St. Louis, Mo.-East St. Louis, Ill., and Texas common points. The Southwestern Lines believe there is justification for the allowance of the same earnings to the Southwestern Lines as they receive on traffic to or from points located in Chicago Territory east of the Mississippi River, as the hauls of the Western Trunk Lines do not exceed the hauls to or from Milwaukee Territory. The joint through rates are made on differentials over the base point, East St. Louis, and as we believe there is justification for the Southwestern Lines receiving Chicago revenue on traffic to or from Milwaukee Territory, the same justification is apparent on traffic to or from points in Western Iowa located in Chicago Territory. The territory immediately north, namely Fox River Territory, carries currently higher differentials than to or from Chicago Territory in Iowa (Tr. 5259).

No divisions are carried between points in Chicago Territory west of the Mississippi River and Texas common points via Cairo-Gale-Thebes, Ill. Divisions should be published on the basis of allowing the Southwestern lines the same percentages as to and from Chicago Territory east of the Mississippi River.

The statement was thereupon received in evidence, marked, Exhibit No. A-161, Witness Sickel.

[fol. 943] The rates shown in Block "C" on page 1 are the local class rates between Dubuque and other points named and East St. Louis. The point I wanted to make particularly in connection with this exhibit is that by looking at this map it can be seen that Chicago territory west of the central part of Iowa enjoys the same differential basis as Chicago territory east of the central part. Also Illinois points. It seems to me that territory should be segregated. If any consideration is going to be given to conditions, it ought to be placed on some higher differential basis than the present differential basis. I think the group is entirely too large. I am in favor of the contraction of an origin or destination group which is as large as the present Chicago group. Take Arkansas, for example, that territory

west of the river is divided into four or five different groups. On Texas traffic you only have comparatively few groups, but you will find that same situation on Omaha-Davenport Territory by looking at that map (Tr. 5260-5261).

As to the Texas groups, possibly it should work north. It should also work south. We do not have a rate blanket north the same as we have south to Texas common points. The rate blanket north is not as large as our blanket in Texas. Section "C" on the third page of Exhibit A-161 indicates that there is no rate blanket from Iowa points to East St. Louis. There is no such blanket. I suppose you would continue to find variations in the rates by selecting different points, but notwithstanding the variation in the local rates between points in Western Iowa and East St. Louis, there is no variation in the differentials. The entire territory is embraced in one differential.

My Exhibit No. A-162 comprises eight sheets and covers the rates and the divisions between points located in [fol. 944] Omaha-Davenport Territory and Texas common points via St. Louis, Mo.-East St. Louis, Ill. (Tr. 5261-5262).

It will be observed that the joint through rates are constructed by the use of lower differentials than the differentials *than the differentials* used in constructing through rates to and from Chicago Territory east and west of the Mississippi River. This exhibit indicates varying divisions for the Western Trunk Lines and correspondingly for the Southwestern Lines. In connection with some of the sheets of this exhibit, it will be observed that the Southwestern Lines receive approximately the same revenue as to and from Chicago Territory east of the Mississippi River, but in a majority of the cases the Southwestern Lines receive less as indicated by the shrink in the divisions received by the Southwestern Lines below their local rates as compared with the shrink assumed by the Southwestern Lines to and from Chicago Territory east of the Mississippi River as indicated by my Exhibit No. A-159. It is doubtful at the present time that all points located in Omaha-Davenport Territory are covered by percentages, and if covered by they are difficult to find, because of the various items in the division sheet, and in many cases it is necessary to have a map to locate the descriptions in order to determine the

divisions. The entire Omaha-Davenport Territory should be covered by one percentage for the Western Trunk Lines and for the Southwestern Lines. The Southwestern Lines take the view that they should be accorded the same revenue as to and from Chicago Territory east of the Mississippi River (Tr. 5263).

It is true that there is a wide disparity in the hauls of the Western Trunk Lines between points in Omaha-Davenport Territory located in the eastern part of Iowa as com- [fol. 945] pared with the western part; however, this is offset by the fact that the mileages between points in Eastern Iowa and East St. Louis are lower than the mileages between Chicago, Ill. and East St. Louis, whereas, the mileages between points in Western Iowa and East St. Louis are greater than the mileage between Chicago and East St. Louis, so that the situation would be equalized. It is very desirable that the present complicated manner in which the divisions are published should be discontinued by the substitution of reasonable and simplified divisions to cover all points located in Omaha-Davenport Territory. The basis I have suggested will bring about that result if converted to percentages using the average of the 10 class divisions for the Southwestern Lines and the Western Trunk Lines, and convert them to percentages based on my proposal (Tr. 5264).

It will be observed that in some instances the Western Trunk Lines received higher percentages on traffic to and from Houston-Galveston rate points as to and from other Texas common points. This is probably due to the fact that some years ago the through rates to and from the so-called Houston-Galveston rate points were lower than to or from Texas common points, although located in Texas common point Territory, but this condition does not prevail at the present time except probably on some commodities, so that there is no justification for any difference in the divisions to and from Houston-Galveston rate points as to and from Texas common points (Tr. 5264-5265).

(The statement described by the witness was thereupon received in evidence as Exhibit A-162.)

[fol. 946] The differentials that I speak of are not the same things that Mr. Dana called arbitraries. I think he had reference to points for example in Fox River Territory,

where they are made arbitraries of Milwaukee. The differentials to which I refer are really differentials.

We have in some few instances arbitrary amounts that are fixed north of the gateway and added to the local rate in order to create the through rate; such as the rates on potatoes, in which case from potato shipping points they have a specific arbitrary over Milwaukee or Chicago, both Mr. Dana's arbitraries and my differentials are amounts north of the junction added to the local rate south to create the through rate (Tr. 5265-5266).

My Exhibit No. A-163 covers divisions from points in St. Louis Territory, namely, Quincy, Ill., West Quincy and Helton, Mo. to Texas common points via East St. Louis, Ill.-St. Louis, Mo. It will be observed the Western Trunk Lines receive 17 percent and the Southwestern Lines 83 percent, and I have shown opposite the result in divisions on each class in cents per 100 pounds for both groups of lines. It will be observed that to Texas common points as indicated by Block "B" the Western Trunk Lines receive 17 percent, and that to Houston-Galveston, Texas rate points, the Western Trunk Lines receive 18 per cent as shown in Block "F", although the same joint through rates are in effect currently to Houston-Galveston rate points as to Texas common points. This has been shown and can be observed from a comparison of the rates shown in Block "A" with Block "E". It will be observed that the divisions apply between, whereas, the St. Louis rates from the three points apply only southbound. On northbound traffic the Omaha-Davenport rates apply, so that the divi- [fol. 947] sions should apply only southbound leaving the Omaha-Davenport Territory divisions as proposed apply northbound. The distances between Quincy, Ill., West Quincy, Mo. and Helton, Mo. and East St. Louis are shown in Block "C," the average of which is 130 miles, and using 803 miles as the average distance between East St. Louis and Texas common points as shown in Mr. Parson's Exhibit No. A-77, the Western Trunk Lines on an actual mileage prorate would receive only 14 percent. I merely point this out as justification for no higher divisions than the Western Trunk Lines currently receive, except that the Suthwestern Lines believe the divisions should be made uniformly 17 per cent, eliminating the 18 per cent division to

the Houston-Galveston rate points for reasons already stated. The divisions should be made to apply southbound only, and on northbound business the Southwestern Lines should be accorded the same revenue as to Chicago Territory east of the Mississippi River, because on northbound traffic the three points referred to are located in Omaha-Davenport Territory, and not in St. Louis Territory (Tr. 5266-5267).

(The statement described by the witness was thereupon received in evidence as Exhibit A-163.)

[fol. 948] By using the average mileages from East St. Louis to 181 Texas common points shown in Mr. Parsons' Exhibit A-77, we would get an actual prorate 14 per cent north to those three points and by using the present percentages, we would get 17 per cent, that is 3 per cent more than the mileage prorate. I don't know whether a rate prorate would be higher than 17 per cent. I don't think I tested it out. The exhibit doesn't show, it may result in a higher differential. I don't advocate any change in this here, I merely wanted to point out the present percentages. The points are practically of no consequence, I take it, and I would not expect any line to accept 14 per cent. I think 17 per cent is little enough, as a matter of fact. On short haul traffic probably it ought to be a little more (Tr. 5267-5268).

My Exhibit No. A-164 comprises three sheets and is presented to further indicate the reasonableness or unreasonableness of the current basis of divisions applicable between points within Western Trunk Line Territory and Texas common points via East St. Louis, Ill.-St. Louis, Mo. The first page covers a list of 49 points located within Western Trunk Line Territory in the states of Minnesota, Wisconsin, Iowa, Illinois and Missouri, on which have been shown in Column 4 the present divisions in percentages and the average, which is 23.2 per cent for the Western Trunk Lines. The divisions in cents per 100 pounds are also shown opposite each station, based on the average of the through 10 class rates, and the average from all the points, which is 34.46 cents. The proportions south of East St. Louis have similarly been shown. In column 8 the average of the 10 class rates from East St. Louis to Texas common points. In Column 10 percentages have been

shown for the Western Trunk Lines, and in Column 12 percentages for the Southwestern Lines opposite each point, based on the average of the 10 class rates as factors. It will be observed that the average from all of the points [fol. 949] shown is 24.2 percent for the Western Trunk Lines, and their division in cents per 100 pounds on that basis is 35.63 cents, which practically confirms the reasonableness of the current divisions to and from all points within Western Trunk Line Territory on the average. This of course is based upon the divisions as published by the Southwestern Lines in Southwestern Lines Division Sheet No. 40 (Tr. 5268-5269).

On sheet 2 of this exhibit, 19 points located within Western Trunk Line Territory taking Milwaukee rates or arbitraries higher have been shown, also in Column 4 the divisions received by the Western Trunk Lines between the points of origin shown and East St. Louis, Ill. based on allowing the Western Trunk Lines 15 per cent from Milwaukee Territory to Chicago or other Chicago junction points, and 20 percent of the remainder between Chicago or Chicago junction points and East St. Louis, or a total of 32 percent plus the arbitraries over Milwaukee from such points as carry arbitraries over Milwaukee Territory. The percentages resulting from that basis are shown in Column 4 based on the average of the 10 class rates. In Column 5 the divisions in cents per 100 pounds are shown for the Western Trunk Lines based on the average of the 10 classes resulting from the percentages shown in Column 4, the average of which is 52.9 cents per 100 pounds from all points shown on this sheet. In Column 6 there is shown the average of the local 10 class rates between the points of origin shown and East St. Louis, and the average from all the points, which is 44 cents, indicating that the divisions received by the Western Trunk Lines on the basis indicated exceed the local rates on the average, origin points to East St. Louis, Ill. (Tr. 5269-5270).

[fol. 950] In Column 7 there is shown the percentage proportion the current division is of the average local 10 class rates, and it will be observed that the divisions received by the Western Trunk Lines exceed their local rates from 104.6 percent to 130.2 percent via Peoria, Ill. the situation is similar except that the spread in excess of the local rates

is less. This sheet has particular reference to traffic from Milwaukee and Fox River Territories and Texas common points handled via Chicago, Ill. and other Chicago junction points and East St. Louis, Ill., to indicate that to the extent to which this basis of divisions is currently applied by the Southwestern Lines as previously described, the divisions for the Western Trunk Lines are excessive, because in every instance shown on this sheet, the Western Trunk Lines receive in excess of their local rates, and even on the basis of their local rates, the Western Trunk Lines would be receiving in excess of a reasonable division, because the Southwestern Lines would be assuming the difference between the combinations over East St. Louis and the through rates made by use of the differentials, which are decidedly less than the local rates. This further confirms what I have previously said that on traffic from or to Milwaukee Territory and Fox River Territory, the Southwestern Lines should receive the same revenue as on similar traffic from or to Chicago. The proportions on that basis accruing to the Western Trunk Lines should be a matter of subdivision between themselves as are the proportions accruing to the Southwestern Lines. The proportions south of East St. Louis on Texas traffic is a matter of subdivision between the lines operating from the Mississippi River and their Texas connections, and the Western Trunk Lines do not join the Southwestern Lines in the subdivision of the proportions south of East St. Louis, nor has any considera- [fol. 951] tion been given that feature in arranging the divisions in the past, so that the situation on both sides of the Mississippi River in that respect should be alike, the Southwestern Lines as in the past having taken care of their own subdivision matters, and the Western Trunk Lines should do the same, otherwise divisional disputes will increase instead of decrease (Tr. 5270-5271-5272).

Sheet No. 3 of this exhibit is a statement covering moving commodities from various points in Milwaukee and Fox River Territories to Texas common points together with the current joint through rates. On the basis of allowing the Western Trunk Lines 15 per cent between Milwaukee Territory and Chicago or Chicago junctions, in division of the through rates from Milwaukee Territory plus the arbitraries over Milwaukee Territory where they

exist are shown in Column 5 reduced to percentages, and the divisions in cents per 100 pounds accruing to the Western Trunk Lines north of Chicago on that basis are shown in Column 6 opposite each station as well as the average from all the points, which is 24.1 cents. In Column 7 there is shown the local rates from the origin points to Chicago, and in Column 8 what the percentage proportion the current division is of the local rate, which indicates that the Western Trunk Lines north of Chicago on a majority of the commodities shown on this sheet receive considerably in excess of their local rates to Chicago. On the same commodities similar information has been shown via East St. Louis, Ill., based on the compounded percentages over Chicago, and it will be seen from Columns 10 and 11 that on the average, the Western Trunk Lines receive 7.7 cents per 100 pounds in excess of their local rates (Tr. 5272).

[fol. 952] This is also true of the divisions via the Peoria Gateway where the divisions are compounded, which further goes to indicate that the compounded division- should be eliminated entirely to the extent to which they are now recognized by the Southwestern Lines by individual arrangements previously referred to, and that the Southwestern Lines on all traffic from or to Milwaukee and Fox River Territories should be accorded Chicago revenue (Tr. 5273).

(The statement described by the witness was thereupon received in evidence as Exhibit A-164.)

[fol. 953] In making these showings, we picked out moving commodities from the territory whenever they are peculiar to those particular origin points shown. Sheet 3 of the exhibit is confined to commodities only. The exhibits show class rates in many instances, because I am suggesting that to cure the present evils. If after arriving at divisions that specifics based on the average of the 10 class divisions to which group of lines you will convert them to percentages and apply them to the division of all through commodity rates, why, one group of lines won't be receiving our class division and the other group doing all the shrinking. You will have a more equitable shrinking be-

tween the class rate and the through commodity rate, which is not the case sometimes at the present time. Now, on Texas traffic you have a division of 20 percent via East St. Louis that applies on all classes of commodities with the exception of lumber and a few others. When you get to Arkansas you don't have that situation. On a division of the majority of the carload commodity rates the Western Trunk Lines receive class specifics the same as they do in the division of a through class rate. That is not right, in our opinion, because that makes the Southwestern Lines shrink the same amount in cents per 100 pounds below their commodity rate as they shrink below their through class rate. That is the point that I am trying to cure. The Southwestern Lines shrink as much in the division of through commodity rate as they shrink in the division of through class rate. Northern lines do not do the same thing. They would get their class specific unless there was a commodity specific published in that division sheet and unless a commodity division sheet was published (Tr. 5273-5274-5275).

Referring to page 3, of Exhibit 164, that is not a case where the class specifics apply to the commodity rates. You don't have that situation on Texas traffic. On Texas traffic, for example, you have from Chicago territory 20 percent. [fol. 954] That applies in the division of all rates so that in that case both groups of lines shrink their revenues by those percentages and that is what I am trying to suggest for Arkansas in place of the specifics. From sheet 3 I am trying to point out that as a result of these compounded divisions of Chicago, the lines north of East St. Louis generally receive on the average more than their local rates between their points of origin and East St. Louis average (Tr. 5275).

On Sheet 3 of the exhibit Batavia is the only example of compounded divisions. By the use of 15 per cent, the line north of Chicago receives 19.4 percent per hundred pounds. The local division is shown in Column 90, thirty two percent. Those are compounded divisions. The Southwestern Lines on this traffic do not restrict the lines north of East St. Louis to their local rates as maxima. In other words, the local rates shown on page 3 do not operate to limit the

revenue received by the Northern Lines. That question came up some time ago and we took the view that the lines north of East St. Louis should be limited to the local rate, but we changed our view because the lines operating between Chicago and East St. Louis objected to it. Our objection was based upon the fact that the lines north of Chicago required 15 percent of the through rate and would not accept any division of the local rate to East St. Louis (Tr. 5276-5277).

I am in sympathy with the provision in the division sheets that no line should receive in excess of its local rates. Now, that is as far as I can go. In other words, getting down to a practical basis, why, I think divisions of that line should be eliminated where you have percentages. If you don't eliminate it your percentages are not worth anything. You might just as well discard them, because in the division of absolutely every through rate you have got to test out the divisions against each rate to determine whether or not one group or the other group receive in excess of their local [fol. 955] rates. Now, where there are divisions that result generally in one or the other group of lines receiving in excess of their local rates to a considerable extent, then I say there is something wrong with those percentages and they should be changed so as not to bring about a general result of that kind. And then when that condition is brought about, then I say eliminate those provisions, and I think the accounting departments of all the lines will be glad to see that brought about (Tr. 5277-5278).

Page 1 of Exhibit A-164 shows that the average division on the class basis is 23.2 percent to the lines north as compared with 24.2 percent which it would get if the divisions were based upon a rate prorate of the first 10 classes. It is my idea that a division should be fixed somewhat along that line than that applied to the through commodity rates and let the chips fall where they may. My idea would be that if one line or the other got in excess of its local rate to let that go.

Now, of course, if we divide that in practically all cases either one or the other group of lines, receive generally in excess of the local rates, then I say there is something wrong with those percentages and some modification should

be made so as to more nearly bring about an equalization of the distribution (Tr. 5278).

Referring to pages 2 and 3 of that exhibit, the arbitraries shown are the arbitraries that Mr. Dana spoke of in connection with the Texas traffic to Kansas City, Marinette for example, shown in column 4 shows a percentage of 41.6, Marinette has an arbitrary, so-called, over Milwaukee territory and that has been used and is reflected in this 41.6 percent. It is true that these arbitraries actually are not divided under the division sheets (Tr. 5279).

[fol. 956] My Exhibit No. A-165 covers rates and divisions on Asphalt, imported through Texas Gulf Ports. I have shown on this sheet the through rates from Texas Gulf Ports to Peoria, Chicago, Ill., Milwaukee, Wis. and St. Paul, Minn. which are the same as the rates on Asphalt imported through the port of New Orleans. In division of the rates from New Orleans, the Western Trunk Lines receive 30 percent to Peoria first deducting Mississippi River transfer of 3 cents per 100 pounds via East St. Louis, Ill., to Chicago, Ill., the Western Trunk Lines receive 33 percent, first deducting Mississippi River transfer 3 cents per 100 pounds via East St. Louis, and 38 percent via Thebes first deducting Mississippi River transfer 3 cents, to Milwaukee via East St. Louis, the lines north of Chicago receive 10 percent of the through rates, the remainder dividing on the Chicago basis mentioned, and on St. Paul traffic via East St. Louis the Western Trunk Lines receive 48 percent first deducting Mississippi River transfer 3 cents per 100 pounds. The result in divisions are shown for the Western Trunk Lines, and for the lines south of East St. Louis or Thebes, Ill. The position taken by some of the Western Trunk Lines is that on traffic imported through Texas Gulf Ports because the rates are the same as on traffic imported through the port of New Orleans, that the Western Trunk Lines should receive New Orleans revenue. I have also shown on this exhibit the Texas percentages currently in effect and the result in divisions in cents per 100 pounds. I have shown on this exhibit the mileage between New Orleans and East St. Louis, Ill. via the Missouri Pacific R. R., which is not the short line mileage, the short line mileage between New Orleans and East St. Louis, Ill. is via the Illinois Central R. R. and the divisions are involved only inso-

far as the west side lines are concerned and not to and from New Orleans, La. (Tr. 5279-5280).

[fol. 957] The position of the Southwestern Lines is that the Texas percentages should be applied on traffic from Texas Gulf Ports locally. The Western Trunk Lines probably would not require New Orleans revenue in the event the New Orleans percentages accorded them less revenue than the Texas percentages, but because the New Orleans percentages accord the Western Trunk Lines greater revenue, and because the rates between Texas and Louisiana Ports are generally equalized on import traffic, the position of some of the Western Trunk Lines is that they require New Orleans revenue apparently for no sound reason (Tr. 5280-5281).

On the other hand, on export traffic handled through the port of New Orleans via the west side lines, if the position of the Western Trunk Lines is consistent on import traffic handled through Texas Guf Ports then the west side lines on export traffic handled through the port of New Orleans might as consistently say that they will require the same revenue as they receive on export traffic handled through Texas Gulf Ports. This would be a reversal of the situation. However, the Southwestern Lines do not take that position. They do however, take the position that whatever the percentages are to and from Texas common points regardless of whether it is import or export traffic, and regardless of the rates, that Texas percentages should be applied the same as the west side lines take with respect to traffic exported through New Orleans as compared with Texas Gulf Ports. If for example the Pacific Coast terminal rate applied as maximum on Texas traffic, and it is possible this situation will come about at no distant date on some commodities, I am wondering if the position of the Western Trunk Lines in this instance is maintained then the presumption would be that the Western Trunk Lines would require Pacific Coast terminal Revenue, or 11 [fol. 958] percent between Chicago and East St. Louis. It is hardly likely that the Western Trunk Lines will take that position, but would apply the Texas percentages. This is merely an illustration, but if may at some time become a serious question. It is the same to Chicago as to Peoria territory on this commodity from New Orleans (Tr. 5281-5282).

I believe that the Galveston Lines on import traffic through East St. Louis and C. F. A. territory use the New Orleans percents. I think those divisions were arranged during the period of Government Control. The Railroad Administration authorized publication of divisions on that basis. Prior to that time the Central freight Association lines required their old locals which the Southwestern Lines did not think was proper. The Railroad Administration was responsible for the equalization of Galveston versus New Orleans (Tr. 5282).

As to the low rate per ton mile to the lines north of East St. Louis under some of these divisions the rates of course are low. Now, the difficulty in the past has been because of that fact commodities are having continually special treatment. Now, the Southwestern Lines feel this way about it, that if you have a general line of percentages between two territories, why, in view of the volume of the traffic that is moved it is necessary that all lines should take the bitter with the sweet. We have to do the same thing frequently. We haul traffic for very very low earnings, sometimes lower than that for longer hauls, but taken as a whole, why, we take the bitter with the sweet, and it seems to me that is highly necessary because if we don't, every time a commodity rate is established and a special treatment is accorded that in the way of divisions, why, there will be no ending of the process of this matter of arranging divisions. That has been our trouble in the past. [fol. 959] I don't recall whether or not there are higher rates on that traffic coming from Galveston to C. F. A. territory than to Chicago. I suppose there may be some points immediately adjacent to the Illinois-Indiana state line that may be comparable with the rates to Chicago (Tr. 5283-5284).

My Exhibit No. A-166 covers divisions on cheese from Wisconsin Group including Milwaukee, Wis. to Dallas, Texas via East St. Louis. The rates as shown on this exhibit from Wisconsin Group, Chicago Group, also St. Louis, Mo.-East St. Louis, Ill., are published in F. A. Leland's Tariff No. 137, I. C. C. No. 1769, and 137-A, I. C. C. No. 1799, which rates were authorized by the Interstate Commerce Commission in I. C. C. Docket No. 15880. The purpose of presenting this exhibit is to indicate the spread

in the joint through rates, Wisconsin Group over the Chicago Group, which is 18 cents per 100 pounds. The rates from St. Louis to all three of those groups were fixed by the Commission (Tr. 5284).

The Wisconsin Group includes Milwaukee, Wisconsin. Prior to the publication of the Commission-made rates Milwaukee Territory enjoyed the same differential over the base point, East St. Louis as Chicago Territory, but the Interstate Commerce Commission have made a substantial spread in the rates, Wisconsin Group over Chicago. It is true that Wisconsin Group includes points north of the so-called Milwaukee Territory, but it also includes points that are located in Milwaukee Territory, including Milwaukee, Wisc., and this further justifies the position of the Southwestern Lines that on traffic to and from Milwaukee and Fox River territories, the Southwestern Lines are entitled to Chicago revenue (Tr. 5284-5285).

(The statements described by the witness were thereupon received in evidence as Exhibits A-165 and A-166 respectively.)

[fol. 960] On the fourth block in Exhibit A-166 the division south of East St. Louis is less than the local rate by 2 cents. That should be inserted. That brings out a point I wanted to make that the Milwaukee Group enjoye a spread of 18 cents over Chicago. Now, the Southwestern Lines are not entitled to any part of that 18 cents and by the use of this division of 22 percent north and 78 percent south we would receive 78 percent of that 18 cent spread. Now, that is not right. That is the reason I am coming down to the point that on Milwaukee Territory there should be a spread in the rates over Chicago, as there originally was and the lines north of Chicago should receive that spread. Now, the Commission here have made these rates from the Milwaukee Group an 18 cent spread over Chicago and the Southwestern Lines are not entitled to any part of that; they are entitled to Chicago revenue and no more. But by the use of this present basis of the divisions we would receive Chicago revenue. My proposed divisions would operate to increase the Northern Lines divisions from 45.3 to 45.4 cents.

The proposed divisions in that block there shows what the Southwestern Lines would receive on the basis of Chi-

cago revenue. That would be 80 per cent of the Chicago rate, which would be 109.6 cents and the lines north would receive 45.4 cents, in which is reflected this 18 cent spread Milwaukee over Chicago (Tr. 5285-5286).

I now desire to take up the subject of divisions between points in Western Trunk Line territory and Louisiana points via St. Louis, Mo.-East St. Louis, Ill., also via Cairo-Gale-Thebes, Ill. It is necessary to outline, as briefly as possible the history of the rates and divisions as originally established. This, I will attempt to do as briefly as I can. I will first dwell upon the rate feature. Effective July 10th, 1904, Missouri Pacific Railway Company Tariff No. 5288, I. C. C. No. 6695, through rates were [fol. 961] established between St. Louis, Mo. and East St. Louis, Ill. and Louisiana points on the Missouri Pacific Railway Company as follows (Tr. 5286):

To and from points on the main line of the Missouri Pacific Railway Company, immediately south of the Arkansas border, the through rates were somewhat less than the rates to and from Texas common points. For example, the rates between St. Louis, Mo. and East St. Louis, Ill. and the first station south of the Arkansas border, viz. Neimeyer, La., the rates were as follows: Class 1, $1.13; 2, .95; 3, .80; 4, .60; 5, .46; A, .44; B, .39; C, .33; D, .28; E, .22. The rates scaled upward to Connor's Spur, La. the last station immediately north of Monroe, La., the rates to and from St. Louis, Mo. and East St. Louis being as follows: Class 1, $1.27; 2, $1.11; 3, .97; 4, .84; 5, .61; A, .68; B, .58; C, .52; D, .46; E, .39. The rates to and from Monroe, La. at that time were carried in Missouri Pacific Railway Company Tariff No. 4807, I. C. C. No. 5336, the rates to and from St. Louis, Mo. and East St. Louis being as follows: Class 1, $1.17; 2, $1.01, 3, .87; 4, .74; 5, .56; A, .63; B, .53; C, .47; D, .47; E, 34. The rates between St. Louis, Mo. and East St. Louis, Ill. and points in Louisiana on the main line of the Missouri Pacific Railway Company south of Monroe, La. to, but not including Alexandria, La., at that time, were published in Missouri Pacific Railway Company Tariff No. 5288, I. C. C. No. 6695, and were the same as the Texas common point rates, which, for the purpose of record were as follows: Class 1, $1.37; 2, $1.21; 3, $1.04; 4, .96; 5, .75; A, .79; B, .70; C, .58; D, .46; E, .39 (Tr. 5287-5288).

The rates between St. Louis and East St. Louis, Ill. and Alexandria, La., effective July 1st, 1903, were published in Missouri Pacific Company Tariff No. 4807, I. C. C. 5336 and were the same as quoted above to and from Monroe, La. The rates from St. Louis, Mo. and East St. Louis, Ill. and [fol. 962] Texas common points, effective May 16th, 1904, were published in Southwestern Freight Committee Tariff No. 1-V, I. C. C. No. 351, and were as follows: Class 1, $1.37; 2, $1.21; 3, $1.04; 4, .96; 5, .75; A, .79; B, .70; C, .58; D, .46; E, 39. Joint through rates between Chicago territory, Milwaukee Territory and Fox River territory, were made by the use of the following differentials over the base point East St. Louis, Ill.-St. Louis, Mo. The differentials to and from Chicago Territory were as follows: Class 1, $0.20; 2, .16; 3, .12; 4, .10; 5, .07; A, .09; B, .08; C, .07; D, .06; E, .05. To and from Milwaukee Territory the same differentials applied as described above to and from Chicago Territory. The Fox River differentials were as follows: Class 1, $0.40; 2, .31; 3, .24; 4, .20; 5, .15; A, .16½; B, .14; C, .12; D, .11; E, .10. Summing up the situation, it will be observed that with the exception of stations on Mo. Pac. main line north of Monroe, La., including Monroe and Alexandria, La., the through rates on the dates given above were the same as to and from Texas common points (Tr. 5288).

The above is as far back as I have been able to locate in individual tariffs covering the particular points in Louisiana described. Between St. Louis, Mo. and East St. Louis, Ill. and points on the Missouri Pacific Railway Company in Louisiana, Vaughn to Sycamore, except Collinston, Rayville, Ferriday and Concordia, in other words, the old New Orleans & Northwestern Railway division of the Missouri Pacific Railway Company, effective November 10th, 1904, in Missouri Pacific Railway Company Tariff No. 5324, I. C. C. No. 6940, the rates then in effect were lower than the Texas common point rates. The rates fluctuated, but in no case were the rates as high as Texas common point rates. For example, the rates to and from Vaughn, La. were as follows: Class 1, $1.22; 2, $1.06; 3, .92; 4, .74; 5, .56; A, .63; B, .53; C, .46; D, .41; E, .34. The next change found was at Oak Ridge, La. to and from which the rates were as fol- [fol. 963] lows: Class 1, $1.27; 2, $1.11; 3, .96; 4, .75; 5, .61;

A, .66; B, .57; C, .46; D, .41; E, .38. The above rates continued as far south as Burke, La., to and from which the rates were as follows: Class 1, $1.32; 2, $1.13; 3, $1.01; 4, .75; 5, .64; A, .66; B, .57; C, .46; D, .41; E, .38. The above rates continued to Gilbert, La.; south thereof the rates fluctuated, the majority being slightly lower than described above (Tr. 5289).

To and from Rayville, La. the rates at that time which were carried in Southern Freight Association Tariff No. 18-I, I. C. C. No. 200, were as follows: Class 1, $1.08; 2, .95; 3, .82; 4, .73; 5, .59; A, .60; B, .51; C, .46; D, .41; E, .35. In Southern Freight Association Tariff No. 1-N, I. C. C. No. 230, effective August 31st, 1904, the through rates between St. Louis, Mo. and East St. Louis, Ill. and Ferriday, La. were as follows: Class 1, $0.90; 2, .75; 3, .65; 4, .50; 5, .40; 6, .35; A, .25; B, .25; C, 25; D, .20; E, .28; H, .57. The rates to and from Ferriday, La. were subject to Southern Freight Association Classification and Exceptions. It also developed at that time, that in Southern Freight Association Tariff No. 1-N, I. C. C. No. 230, effective August 31st, 1904, through rates were carried between St. Louis, Mo. and East St. Louis, Ill. and points in Louisiana on the Missouri Pacific Railway Company division south of the Arkansas border in Louisiana to and including Ferriday, La. That tariff provided for the application of the New Orleans rates. In other words, the rates quoted above to and from Ferriday, La. are the New Orleans rates. The through rates to and from Chicago, Milwaukee and Fox River territories were on the standard differential basis, in other words, to and from Chicago and Milwaukee territories, the 20 cent differential scale was in effect and to and from Fox River the 40 cent scale was in effect (Tr. 5290).

[fol. 964] Between St. Louis, Mo. and East St. Louis, Ill. and points on the Watkins Division of the Missouri Pacific Railway Company, which covers stations south of Alexandria, La. to and including Lake Charles, La. the through rates were published in Missouri Pacific Railway Company Tariff No. 4041, I. C. C. No. 3711, effective Feb. 1st, 1901, in which provision was made that the same rates would apply as to and from Longview, Tex., the latter being a Texas common point, taking Texas common point rates. The exception was Lake Charles, La. to and from which the

rates were published in Louisiana Freight Committee Tariff No. 1, issued by R. D. Berrey, I. C. C. No. 1, effective October 25th, 1905, and were as follows, to and from St. Louis, Mo. and East St. Louis, Ill.: Class 1, $1.30; 2, $1.09; 3, .90; 4, .75; 5, .60; A, .53; B, .51; C, .45; D, .38; E, .35 (Tr. 5291).

It will be observed the rates to and from Lake Charles were slightly lower than the rates to and from Texas common points. I have also developed the situation with respect to rates to and from Louisiana stations on the Texas and Pacific Railway. In Missouri Pacific Railway Company Tariff No. 4041, I. C. C. No. 3711, effective Feb. 1st, 1901, provision was made that through rates to and from points on the Texas and Pacific Railway in Louisiana would be the same as to or from Longview, Tex., the latter being a Texas common point, except that to and from stations Addis and [illegible]st, including points on the Port Allen, Lafourche and Napoleonville Branches, it was provided that if the lower rates would result by application of Southern Freight Association Tariff No. 1-I, I. C. C. No. 114, and Texas & Pacific Railway Tariff No. 4155-H, I. C. C. 733, the latter would apply. The through rates to and from Chicago, Mil- [fol. 965] waukee and Fox River territories were made by the use of the standard differential basis, or the 20 cent differential scale for Chicago, and Milwaukee territories, and the 40 cent scale for the Fox River territory (Tr. 5291-5292).

I next covered the situation with respect to rates to and from Southern Pacific Lines in Louisiana as far back as I could locate tariffs. Effective August 25th, 1903 in through freight Tariff No. 16-G, issued by S. Frink, which bears Missouri Pacific Railway Company and St. Louis Iron Mountain & Southern Tariff No. 4886, I. C. C. No. 195, through rates were published from St. Louis, Mo. and East St. Louis, Ill., the rates scaled upward beginning at the first point beyond the switching limits of New Orleans, but the through rates in all cases were less than the rates to or from Texas common points. The exception was joint track stations between Alexandria and Moreland, not including Alexandria to which the through rates were the same as to Texas common points, the rates to the joint track stations referred to being carried at that time, in Louisiana Freight Committee Tariff No. 1, I. C. C. No. 1, issued by R. D.

Berrey effective October 25th, 1905. The through rates from Chicago, Milwaukee and Fox River territories were made over the base point St. Louis, Mo.-East St. Louis, Ill. by the use of 20 cent differential scale from Chicago and Milwaukee territories, and the 40 cent scale from Fox River territory. I have been unable to develop the situation with respect to the rates covering Louisiana points on other lines, but I have covered the greater part of Louisiana as it existed at that time by making a survey of the rates to and from points on the Missouri Pacific Railway Company, Texas and Pacific Railway Co. and Southern Pacific Lines in Louisiana (Tr. 5292-5293).

[fol. 966] I will attempt to give, as briefly as possible, the original divisional arrangements. My Exhibit No. A-167 comprises photostatic copies of Missouri Pacific Railway Company, St. Louis Iron Mountain Southern Railway Company Percentage Sheet No. 210, Percentage Sheet No. 353, Percentage Sheet 353-A, Percentage Sheet No. 360 and Amendments 2 and 3, Percentage Sheet 372 and Amendment No. 7, Percentage Sheet 507 and Amendment No. 3 and Percentage Sheet 819, also Division Basis No. 930-C, the latter two issues being the current publications of the Missouri Pacific Railroad Company. It will be observed that percentages were originally established in Percentage Sheet No. 210, effective December 1, 1892, between Chicago, Ill., Milwaukee, Wis., and territory, and Shreveport, La., via East St. Louis, Ill. and via Cairo, Ill. The percentages between Chicago, Ill. and Shreveport, La. via East St. Louis, as then published, were 25 per cent to the Western Trunk Lines on all of the classes and that on business from Milwaukee, Wis. the Missouri Pacific Railroad received the same revenue as on Chicago, Ill. traffic. On commodities the same basis was applied. Between Chicago, Ill. and Shreveport, La. via Cairo, Ill., the Western Trunk Lines received in addition to 25 per cent applicable via East St. Louis, Ill., differentials of 3 cents per one hundred pounds on the first four classes and 2 cents per one hundred pounds on the remaining classes in addition to the revenue between Chicago, Ill. and East St. Louis, Ill. It will be observed on Milwaukee, Wis. traffic that the Missouri Pacific Railroad received Chicago, Ill. revenue via both gateways (Tr. 5293-5294).

Missouri Pacific Railway Company percentage sheet No. 353-A, effective November 17, 1896, cancelled Percentage Sheet No. 353 and continued the same basis of divisions as [fol. 967] in Percentage Sheet No. 353 except that Fox River District was added on basis of allowing the Missouri Pacific Railroad the same revenue as on Chicago, Ill. traffic. Missouri Pacific Railway Company Percentage Sheet No. 360, effective November 28, 1896, published percentages between Chicago, Ill., Milwaukee, Wis., and Fox River District and Shreveport, La. via East St. Louis, Ill. and Cairo, Ill. It will be observed that this percentage sheet was not limited to the C. B. & Q. and C. P. & St. L. Railroads, but applied in connection with all Western Trunk Lines on account of there being no exceptions. The percentages from Chicago, Ill. to Shreveport, La., via East St. Louis, Ill., were published on the basis of 30 per cent to the Western Trunk Lines and that on traffic from Milwaukee, Wis. and Fox River District and points in their respective territories, then Missouri Pacific Railroad received the same revenue as on traffic from Chicago, Ill. proper (Tr. 5294-5295).

It will be observed that the percentages effective November 28, 1896, were increased from 25 per cent, which applied in connection with the C. B. & Q. and C. P. & St. L. only, to 30 per cent and were extended to cover all Western Trunk Lines that participated in the through rates. The reason for the increase to the Western Trunk Lines from 25 per cent to 30 per cent was, as I recall it, because of a corresponding increase through the Kansas City gateway. In Amendment No. 3 to Percentage Sheet 360, effective February 1, 1897, percentages were published between Iowa and Missouri Points, also Quincy, Ill., as listed in that supplement, and Shreveport, La. via St. Louis, Mo.

Missouri Pacific Railway Company Percentage Sheet No. 372, effective April 15, 1897, cancelled Percentage Sheet No. 360 and merely added Monroe, La. on the same basis [fol. 968] as Shreveport, La. Amendment No. 7 to Percentage Sheet 373, effective March 1, 1898, added Alexandria and Boyce, La. on the same basis as Shreveport on Northbound and Southbound traffic. Also find that Amendment No. 3 to Percentage Sheet No. 373, effective August

6, 1897, provided that the southbound percentages to Shreveport and Monroe, La. would also apply northbound, but I have been unable to obtain a photostatic copy thereof because the amendment was in bad shape. It will be observed that on Milwaukee and Fox River District and points in their respective territories via East St. Louis or Cairo, Ill., the Missouri Pacific Railroad received the same revenue as on traffic from Chicago, Ill. proper and this basis also applied northbound, as previously referred to in Amendment No. 3 (Tr. 5295-5296).

Missouri Pacific Railway Company Percentage Sheet No. 507, effective January 16, 1899 continues the Chicago divisions previously quoted but on traffic between Milwaukee, Wis. and points in Milwaukee territory and Shreveport, Monroe, Boyce and Alexandria, La., provision is made that via East St. Louis or Cairo, Ill. the lines to East St. Louis or Cairo were to be allowed specifics as shown, being 6 cents on first class in addition to their percentage proportion of the Chicago rates. This is approximately the date on which the original Milwaukee, Wis. differentials were discontinued and Chicago differentials substituted for application on traffic to or from points in Milwaukee territory. Prior thereto the Milwaukee territory differentials over the base point East St. Louis in constructing joint through rates to and from Louisiana points, reflected the spread over the Chicago territory differentials to the extent of the specifics as shown on each class in this percentage sheet, however, with the discontinuance of the original Milwaukee territory differentials and the substitution of the Chicago differentials for application in constructing joint through rates to and from Milwaukee territory, it will be observed that the Western Trunk Lines con- [fol. 969] tinued to receive the same revenue so that the Southwestern Lines assumed the entire shrink by reason of the substitution of the Chicago differentials to and from Milwaukee territory (Tr. 5296-5297).

Prior to January 16, 1899, as previously pointed out, the Southwestern Lines received Chicago revenue on traffic to or from points in Milwaukee territory and Western Trunk Lines also received Chicago revenue plus the spread in the rates Milwaukee territory over Chicago territory, but on

and after January 16, 1899, while the Western Trunk Lines continued to receive the same revenue, the Southwestern Lines received as much less than Chicago revenue as reflected by the specifics on each class as shown in Missouri Pacific Railway Percentage Sheet No. 507. The same condition is true of Fox River Territory because on and after January 16, 1899, Fox River Territory enjoyed the same spread in the differentials over Milwaukee territory as prior to January 16, 1899, so that there was a corresponding reduction in the differentials to and from the Fox River territory as related to and from Milwaukee territory which was assumed entirely by the Southwestern Lines under this percentage sheet, whereas prior to January 16, 1899, the Missouri Pacific Railroad on Fox River traffic received Chicago revenue (Tr. 5297).

Several other additions were made in percentages covering Omaha-Davenport territory, namely the 27½ per cent division which was the first time those percentages were published. This is also true of points in Illinois on the C. B. & Q. and in St. Louis territory. I make reference to the division of 20 percent. Our next Percentage Sheet was No. 514 which cancelled Percentage Sheet No. 507, but which continued the same arrangement with some minor additions covering the St. Louis & Hannibal Railway. Missouri Pacific Percentage Sheet No. 819, effective September 18, 1905, is the current issue of the Missouri Pacific Railroad. The arrangements outlined in connection with Missouri Pacific Percentage Sheet No. 507 have been continued [fol. 970] in Percentage Sheet No. 819 with possibly some minor additions. Chicago and St. Louis Traffic Association Division Sheet No. 99 (cancels Division Sheet No. 97), effective May 25, 1895, provided that between Chicago, Ill. and points taking same rates, and points in Louisiana taking Texas common point rates or higher, the lines between Chicago and points taking same rates, and East St. Louis, Ill., East Hannibal and East Louisiana, received 20 percent on all class and commodity rates, and via Cairo, Ill. 22 percent. This is the oldest Chicago and St. Louis Traffic Association Division Sheet in our possession. Chicago and St. Louis Traffic Association Division Sheet No. 108, effective July 15, 1901 (cancels Division Sheet No. 106)

is the latest Chicago and St. Louis Traffic Association Division Sheet that we have in our files. This issue provides that between Chicago and points taking same rates and points in Louisiana taking Texas common point rates or higher, the lines between Chicago and points taking same rates and East St. Louis, East Hannibal, East Louisiana and Quincy, Ill. received 20 percent, and via Thebes-Cairo-Gale, Ill. and East Cape Girardeau 22 percent (Tr. 5298-9).

Chicago and St. Louis Traffic Association Division Sheet No. 107, effective June 1, 1901 (cancels Division Sheet No. 104), published divisions between Milwaukee and common points and points in Louisiana taking Texas common point rates or higher on the basis of 20 percent for the Western Trunk Lines on Classes 1, 2 and 3, or commodities so classified in Western Classification or exceptions thereto, third-class and higher, and the Western Trunk Lines received 22 percent on all other class and commodity rates in effect to and from Milwaukee and common points. The above divisions, being applicable via East St. Louis, East Hannibal, East Louisiana and Quincy, Ill. Via Cairo-Gale-Thebes or East Cape Girardeau, the Western Trunk Lines received 22 per cent on classes 1, 2 and 3, and commodities so classified in Western Classification or exceptions thereto, and 24 percent on all class and commodity rates. This is [fol. 971] the only Chicago and St. Louis Traffic Association Division sheet in our possession covering divisions between Milwaukee and common points and points in Louisiana (Tr. 5299).

It will be observed that the Western Trunk Lines in their committee division sheets referred to, to and from Louisiana points to and from which rates were the same as to and from Texas common points, that the Texas percentages were accepted by the Western Trunk Lines. I am also quoting Western Trunk Lines Committee Report on Subject 19861, dated Chicago, December 11, 1916 as follows:

"Divisions Between Defined Territories and All Stations in Louisiana"

"To Members:

"Report on Committee No. 6, November 22nd and 23rd, December 6th and 7th, 1916

"Divisions north of St. Louis or other corresponding junctions on traffic to or from stations on the T. & P. Ry. or other lines in Louisiana carried on New Orleans rate basis.

"It is the understanding of this committee that lines north of St. Louis and Chicago are now allowed New Orleans revenue. Western Trunk Lines are not concerned in division of proportions south of St. Louis and corresponding junctions.

"Via Kansas City, rates are divided on percentage bases. The bases via Kansas City are not alike via all lines, and this committee recommends a joint conference of all lines working via the Kansas City Gateway to compare the various bases and agrees upon a uniform basis to apply via all lines.

"Division of Through Rates Between Defined Territories and Stations in Louisiana Not Taking New Orleans Rate Basis (Tr. 5300).

"Individual division sheets have been published on the following basis: The basis of divisions for these rates in percentages shown in Southwestern Lines Division Sheet [fol. 972] No. 19-C; The Percentages applied to Louisiana traffic being the same as to Texas local points taking Texas common point rates. Division Sheet No. 19-C, provides that local or proportional rates, whichever are lower, shall be the maximum to the lines participating in this traffic, with certain exceptions as shown in Item 10-A of this division sheet. The committee recommends that the rates covered by this subject be divided on the basis shown above, with restrictions as to local or proportional rates as maxima, and the exceptions as shown in the item named, and except on traffic to and from the following points:

Shreveport, Bossier City, Monroe, West Monroe, Alexandria, Pineville, Heard, Boyce, to and from which points percentages as shown in St. Louis Southwestern Railway Company Percentage Sheet No. 1930 apply."

(Signed) E. B. Boyd (Tr. 5301).

Committee No. 6 of the Western Trunk Lines at that time was the regular Divisions Committee, and their reports and agreements were subject to the approval of the General Traffic Committee. What final action was taken I have no record of; however, the understanding of the Western Trunk Lines Divisions Committee is fully outlined in the report quoted, and it will be noted that it was the understanding of that committee, that Texas percentages were applicable on Louisiana traffic with exception of the points specifically listed above, and further, with the exception of points in Louisiana on the T. & P. Ry. or other lines to and from which the New Orleans rate basis was published, so that there were three different bases to and from points in Louisiana, the Shreveport-Alexandria-Monroe Group, which is on the 30 percent basis for the Western Trunk Lines to and from Chicago via East St. Louis, Ill.-St. Louis, Mo., the Texas percentages or 20 percent to and from all [fol. 973] other points in Louisiana except points in interior Louisiana taking New Orleans rates on which the Western Trunk Lines maintain the same percentages should be applied as on traffic to or from New Orleans, La. The latter feature will be covered later in my testimony. I also wish to call attention to Missouri Pacific Railway Company Division Basis No. 930-C, which has been made a part of my Exhibit No. A-167. Item 10 thereof covers points on the St. Louis Iron Mountain & Southern Ry., now the Missouri Pacific R. R., south of Monroe, north of Alexandria, and provides that the lines north of Mississippi River Crossings receive Alexandria percentages with Alexandria revenue as maximum, the Alexandria percentages via Mississippi River Crossings being published in Missouri Pacific Railway Company Percentage Sheet No. 819. Item No. 10 of that division basis also covers all other points in Louisiana on the St. Louis Iron Mountain & Southern Ry., except points mentioned above, and except points south of Alexandria (Tr. 5301-5302).

Provision is made that the Western Trunk Lines receive via Mississippi River Crossings Monroe, La. percentages with Monroe revenue as maximum, and also refers to Missouri Pacific Percentage Sheet No. 819. The same item covers points south of Alexandria such as Kinder, Lake Charles, and Oakdale, La. which are competitive points, as well as local points south of Alexandria, and provides that the Western Trunk Lines receive via Mississippi River Crossings Texas percentages. So that the main lines of the Missouri Pacific R. R. in Louisiana, south of the Arkansas border with the exception of points south of Alexandria are subject to the Shreveport-Alexandria-Monroe percentages with Alexandria or Monroe, La. revenue as maximum to the Western Trunk Lines according to the location.

My Exhibit No. A-168 comprises seven sheets and covers the rates and divisions between points in Chicago Terri- [fol. 974] tory in Illinois and points in Louisiana via St. Louis, Mo.-East St. Louis, Ill. On the first sheet of this exhibit, I have shown current rates and divisions on Texas common point traffic, and the specifics on each class for the Western Trunk Lines and for the Southwestern Lines. I have shown the present divisions received by the Western Trunk Lines on traffic to or from Arkansas points in specifics on each class, and I have also shown in Block "C" the divisions as proposed by the Southwestern Lines for the Western Trunk Lines on Arkansas traffic (Tr. 5303).

Through rates between Chicago Territory and points in Louisiana are constructed on differentials over the base point, East St. Louis, the same as to and from Arkansas and Texas. The through rates between St. Louis, East St. Louis, also Cairo-Gale-Thebes, Ill. and Louisiana points are higher than the rates to and from Southern Arkansas points, that is, the class rates also commodity rates, although in connection with the latter there are some exceptions. The rates to and from Chicago Territory being made differentially over the base point, East St. Louis, it follows that rates between Chicago Territory and Louisiana points are higher than to or from Arkansas points to the same extent as are the rates to and from St. Louis, Mo.-East St. Louis, Ill. I have shown on Sheet 1 of this exhibit in Block "D," the rates between Chicago Territory, and Arkansas border points and to Louisiana points immediately south of

the Arkansas-Louisiana border, which brings out that feature. I have also shown on Sheets 2, 3 and 4, the through rates between Chicago Territory in Illinois and representative Louisiana points, also the divisions received currently by the Western Trunk Lines and by the Southwestern Lines in percentages, and in specifics on each class. It will be noted that to and from Bastrop, Monroe, Georgetown, Alexandria, Ruston, Winnfield, Minden, Shreveport and [fol. 975] several other points, the Western Trunk Lines receive 30 percent and the Southwestern Lines 70 percent, and that to and from a number of other Louisiana points shown on these three sheets the Western Trunk Lines receive 20 percent and the Southwestern Lines 80 percent, the latter being the Texas common point percents. The through rates however, between St. Louis, Mo.-East St. Louis, Ill., also Chicago Territory and Louisiana points are not the same as to and from Texas common points but are lower, so that to and from points in Louisiana at the present time, and for some time past misunderstandings have arisen excepting points subject to the 30 percent division, and which in brief are Shreveport-Alexandria-Monroe, and other points of lesser importance. I previously quoted Western Trunk Lines Committee Subject No. 19861, dated December 11th, 1916, recommending the application of Texas percentages except to and from Shreveport-Alexandria-Monroe Group, so that this proceeding is an opportune time to have these divisions determined so that there will be no further disputes between the carriers. As before stated, the rates between Chicago Territory and points in Louisiana are made by the use of the standard current differential basis over the base point, East St. Louis, Ill., and the present divisions naturally allow the Western Trunk Lines earnings in excess of the differentials. That of course is expected, but in connection therewith, I have shown on each class the specifics in cents per 100 pounds that the Southwestern Lines shrink below their current local rates in connection with Louisiana points taking the 30 percent division, and in connection with Louisiana points subject to the 20 percent divison (Tr. 5304-5305).

The points that are shown on Sheets 2, 3 and 4 have been circled in red on my succeeding Exhibit No. A-169 which I desire to present at this time, which I thought might be of

[fol. 976] some assistance in following my testimony. On Sheet No. 5 of Exhibit A-168 I have shown the local rates between 18 points in Illinois having a population of 10,000 or more and East St. Louis, Ill. On sheet No. 6 I have shown the local rates between St. Louis, Mo.-East St. Louis, Ill. also Cairo-Gale-Thebes, Ill. and the same points in Louisiana upon which divisions have been shown on Sheets 2, 3 and 4 of this exhibit, and the average of the 10 class rates for each Louisiana point, also the average of the 10 class rates for each Louisiana point, also the average of all of the stations shown on that sheet together with the distances to and from East St. Louis, and the average to and from all the points. On Sheet No. 7 I have worked out percentages based on mileages. In the first block of that sheet I have shown the average mileage between Illinois points and East St. Louis as taken from Mr. Parson's Exhibit No. A-77, or 185 miles, and I have also shown the average of the mileages between East St. Louis, Ill. and Louisiana points as taken from Mr. Parsons' Exhibit No. A-77, or 652 miles. This would result in the Western Trunk Lines receiving 22 percent and the Southwestern Lines 78 percent (Tr. 5306).

In the next block I have shown the average of mileages between Illinois points and East St. Louis having a population of 10,000 or more as shown by my Exhibit No. A-158 which is 209 miles, also the average of mileages between East St. Louis, Ill. and Louisiana points as taken from Mr. Parson's Exhibit No. A-77, or 652 miles. This would result in the Western Trunk Lines receiving 24.3 percent and the Southwestern Lines 75.7 percent. I have next shown the average of mileages between Illinois points and East St. Louis having a population of 10,000 or more as shown by my Exhibit No. A-158, or 209 miles, as compared with the average of mileages between East St. Louis, Ill. and Loui-
[fol. 977] siana points as shown by Sheet No. 6 of this exhibit, or 612 miles. This would result in the Western Trunk Lines receiving 25.5 percent and the Southwestern Lines 74.5 percent. The average of the three methods referred to would result in the Western Trunk Lines receiving 23.9 percent and the Southwestern Lines 76.1 percent. This as compared with 30 per cent to and from points in the Shreveport-Alexandria-Monroe Group, and 20 percent to and from

other Louisiana points. I have also made a test by the use of the current local rates following somewhat along the same lines, by first showing the average of the 10 class rates between St. Louis, Mo.-East St. Louis, Ill. and the same 18 Illinois points having a population of 10,000 or more as shown by my Exhibit No. A-158, which is 33.5 cents per 100 pounds as compared with the average of the class rates between St. Louis, Mo.-East St. Louis, Ill., and the 22 Louisiana points shown on Sheet No. 6 of this Exhibit, which is $1.095 per 100 pounds (Tr. 5306-5307).

Converted to percentages the Western Trunk Lines would receive 23.4 percent and the Southwestern Lines 76.6 percent. I have also shown by the use of the same factor for the Western Trunk Lines, and $1.106 for the Southwestern Lines, the latter being the average of the 10 class rates between St. Louis, Mo.-East St. Louis, Ill., and Shreveport and Alexandria, La. This would allow the Western Trunk Lines 23.2 percent and the Southwestern Lines 76.8 percent. I have next shown by the use of the same factor for the Western Trunk Lines, or 33.5 cents, and $1.085 for the Southwestern Lines, the latter being the average of the 10 class rates between St. Louis, Mo.-East St. Louis, Ill. and Shreveport-Alexandria-Monroe, La. percentages which would allow the Western Trunk Lines 23.6 percent and the Southwestern Lines 76.4 percent. The average of the last [fol. 978] three methods would allow the Western Trunk Lines 23.4 percent, and the Southwestern Lines 76.4 percent. A rate prorate would give the Western Trunk Lines slightly more than a mileage prorate, about one-half of one percent taking it on the average (Tr. 5307-5308).

Now, here again I overlooked including Joilet and Kankakee, but I have tested out both the mileage basis and the rate prorate basis and it changes these percentages one-tenth of 1 percent, that is all. So I don't think it necessary hardly to make any change. Sheet 7 of this exhibit, in the opinion of the Southwestern Lines brings out conclusively that the divisions between Chicago Territory and points in Louisiana subject to the 30 percent division via St. Louis, Mo.-East St. Louis, Ill. are excessive for the Western Trunk Lines, and it practically confirms the original basis of 25 percent as covered by Missouri Pacific Railway Percentage

Sheet No. 210, photostatic copy of which has been made a part of my previous exhibit. That 25 percent applied only to Shreveport originally. Then it was extended to Monroe and Alexandria later. When I say that the exhibit confirms the 25 percent, I mean as applied to those points subject to the 30 percent division as at present. I didn't apply it to the balance of the state south of that group (Tr. 5308-5309).

As previously pointed out the rates between St. Louis, Mo.-East St. Louis, Ill. and Louisiana points with exception of some commodity rates are higher than the rates to or from Arkansas points and Chicago Territory similarly, because of the differential basis over the base point, East St. Louis. Proceeding in a southerly direction through the state of Arkansas the rates gradually become higher for the greater distances of the Southwestern Lines, and correspondingly higher to and from points in Louisiana because of the added service, so that on traffic to or from St. Louis, Mo. and East St. Louis, Ill., the earnings of the Southwest-[fol. 979] ern Lines become greater for their added service, and the same situation should also be reflected in the division of joint through rates to and from points in the defined territories east of Mississippi River Crossings (Tr. 5309-5310).

This situation is generally reflected in the division of rates to and from points in the defined territories east of the Mississippi River with the exception of Western Trunk Line Territory. It therefore follows that the Western Trunk Lines should receive no greater division on Louisiana traffic as on Arkansas traffic, in other words, the same specifics for the Western Trunk Lines as I have proposed for application on Arkansas traffic should also be applied as to Louisiana traffic, which are shown on Sheet No. 1 of this exhibit. Percentages should be arranged by taking the average of the specifics referred to for the Western Trunk Lines on the 10 classes, and the balance of the through rates on the 10 classes for the Southwestern Lines, using the average of such balance and percentages published, that insofar as traffic moving on through class rates are concerned would result in the Western Trunk Lines receiving approximately the same specifics as proposed on Arkansas

traffic, and such percentages should be applied in the division of all joint through rates regardless of how made, and regardless if rates on some commodities from interior Louisiana points are on the same basis as New Orleans, for example, Sugar, Molasses, Oyster Shells and several other commodities which I will refer to later on in my testimony. In the opinion of the Southwestern Lines there is no justification for any difference in the divisions received by the Western Trunk Lines on Louisiana traffic as on Arkansas traffic insofar as class rates are concerned, and if percentages are published in the manner indicated, it will bring [fol. 980] about an equitable distribution of the revenue in division of through commodity rates (Tr. 5310-5311).

The principal commodities originating in the Southwest and terminating in Western Trunk Line Territory have generally been subject to specific agreements that accord the Western Trunk Lines greater divisions than by the application of merchandise percentages. This we believe is improper, because if merchandise percentages are proper in the division of through class rates they are also proper on through commodity rates. On commodities originating within Western Trunk Line Territory, practically all traffic destined points in the Southwest is divided on merchandise bases, and if any inequalities have resulted it has generally been in favor of the Western Trunk Lines and against the Southwestern Lines as I pointed out before, so that whatever percentages are adopted in the division of through class rates should be applied in the division of all through commodity rates (Tr. 5311).

The basis I have proposed is therefore intended to cover the entire state of Louisiana with the exception of New Orleans, La. and west bank points that are within the switching limits of New Orleans, including Vidalia, La., which is a Mississippi Valley prorating point, and is on the same basis as Natchez, Miss. on the east bank, because the west side lines equalize the divisions made by the east side lines, however, the Southwestern Lines are not adverse to placing Vidalia, La. on the same basis of percentages as proposed for application to and from all other interior Louisiana points (Tr. 5311-5312).

(The three statements described by the witness were thereupon received in evidence as Exhibit A-167, A-168 and A-169.)

[fol. 981] My Exhibit No. A-170 comprises five sheets and covers rates and divisions between Chicago Territory in Illinois and Louisiana points as shown in this exhibit via Cairo-Gale-Thebes, Ill. It will be observed that to the Shreveport-Alexandria-Monroe Group the Western Trunk Lines receive 40 percent and the Southwestern Lines 60 percent. I have also shown the Texas percentages to and from all other points on the exhibit. Sheets 1, 2 and 3 show this information, and the earnings in cents per 100 pounds for the Western Trunk Lines and for the Southwestern Lines on each class. I have also shown the shrink that is being made currently by the Southwestern Lines in their divisions below their current local rates on each class. It will be observed that the shrink being made by the Southwestern Lines below their current local rates is very substantial, for example on fifth-class at Monroe the shrink is 38.8 cents, at Alexandria 32.4 cents and at Shreveport 32.4 cents per 100 pounds. Even on the basis of Texas percentages at other points, the shrink of the Southwestern Lines below their current local rates is very substantial (Tr. 5312-5313).

On the other hand, a comparison of the divisions received in cents per 100 pounds by the Western Trunk Lines on traffic between Chicago Territory in Illinois and Shreveport-Alexandria-Monroe, La. and other points subject to the 40 per cent division as compared with the local rates between Chicago, Ill. and Cairo-Gale-Thebes, Ill. as well as the local rates between other Illinois points and Cairo-Gale-Thebes, Ill. as shown on Sheet 4 of this exhibit indicates that the divisions received by the Western Trunk Lines in practically all cases in division of through class rates exceed their full current local rates. Provision is made in the division sheets that lines north and south of Cairo-Gale-Thebes, Ill., are not to receive in excess of their local rates, [fol. 982] so that the Western Trunk Lines receive approximately their local rates to and from points in Louisiana that are subject to the 40 percent division, and the Southwestern Lines assume the entire shrink between the

combination and the current standard differentials. This alone indicates that the 40 percent division is in excess of what the Western Trunk Lines should receive, as there can be no justification for one group of lines receiving their full local rates, and another group of lines being required to make the entire shrink between the combinations and the differential basis (Tr. 5313).

This situation, of course, does not obtain to and from points in Louisiana that are subject to the Texas percentages or 22 percent, however, the Southwestern Lines do make a substantial shrink in their divisions below their current local rates. On sheet 4 of this exhibit, I have shown opposite each Illinois point the current local rates between such Illinois points and Cairo-Gales-Thebes, Ill. as compared with the local rates between the same points and St. Louis, Mo.-East St. Louis, Ill. and the spread in the local rates on each class Cairo-Gale-Thebes, Ill. over St. Louis, Mo.-East St. Louis, Ill. It will be observed that the divisions received by the Western Trunk Lines to and from Louisiana points that are subject to the 40 percent division, that the earnings of the Western Trunk Lines on each class via Cairo-Gale-Thebes, Ill. as compaerd with the divisions via East St. Louis, Ill.-St. Louis, Mo. on the basis of 30 percent, which is the present division, that the spread in their earnings Cairo-Gale-Thebes, Ill. over St. Louis, Mo.-East St. Louis, Ill. is in excess of the spread in their local rates Cairo-Gale-Thebes, Ill. as compared with St. Louis, Mo.-East St. Louis, Ill. This in the opinion of the Southwestern Lines is conclusive that there can be no justification whatever for the division of 40 percent via Cairo-Gale-Thebes, Ill. as currently in effect (Tr. 5314).

[fol. 983] To bring out the point I desire to refer specifically to Shreveport as an example, the Western Trunk Lines currently receive 69.6 cents per 100 pounds via St. Louis, Mo.-East St. Louis, Ill. on first-class, and 32.6 cents per 100 pounds on fifth class. Via Cairo-Gale-Thebes, Ill., the Western Trunk Lines currently receive 92.8 cents per 100 pounds on first-class and 43.4 cents per 100 pounds on fifth class. It will be seen that the spread in the divisions of the Western Trunk Lines via Cairo-Gale-Thebes, Ill. exceed the divisions via St. Louis, Mo.-East St. Louis, Ill.

by 23.2 cents on first-class, and 10.8 cents on fifth class, whereas, the spread in the local rates between Chicago and Cairo-Gale-Thebes, Ill. over St. Louis, Mo.-East St. Louis, Ill. currently is 9.5 cents per 100 pounds on first-class, and 3.5 cents on fifth-class (Tr. 5315).

On sheet No. 5 of this exhibit I have shown the average of the class rates between Cairo-Gale-Thebes, Ill. and 18 Illinois points having a population of 10,000 or more as shown by Exhibit No. A-158 which is 39.3 cents per 100 pounds, and I have also shown the average of the class rates between Cairo-Gale-Thebes, Ill. and Louisiana points as shown by Sheet No. 6 of Exhibit No. A-168, which is $1.09½ per 100 pounds. Reduced to percentages the Western Trunk Lines would receive 26.4 percent and the Southwestern Lines 73.6 percent. This further confirms what I have said about the divisions via Cairo-Gale-Thebes, Ill. and practically justifies the Texas percent to and from all Louisiana points, however, as before pointed out, because the rates between Cairo-Gale-Thebes, Ill. to and from points in Louisiana reflect a gradual advance based on the added service of the Southwestern Lines as compared with [fol. 984] rates to and from points in Arkansas, and that on local traffic this is reflected, so that on traffic to or from points in Chicago Territory which are made differentially over East St. Louis, it follows that the Western Trunk Lines should receive no greater division than on traffic to or from points in Arkansas, that is, the specifics I have proposed for application on Arkansas traffic via Cairo-Gale-Thebes, Ill. for the Western Trunk Lines should be averaged on the 10 classes, and the balance of the through rates for the Southwestern Lines on the 10 classes should also be averaged and percentages arrived at on that basis to and from all interior Louisiana points which when applied to the class rates will bring about approximately the specifics that I have proposed on Arkansas traffic and accord the Southwestern Lines the spread in the rates as their service increases (Tr. 5315-5316).

Referring to sheet No. 5 of Exhibit A-170, where it says "average of class rates between Cairo-Gale-Thebes, etc." as shown on Exhibit No. Blank, that would be Exhibit A-168, and in the next line where it says "average of class rates as shown by Sheet No. 6 of Exhibit No. Blank",

that first block where it speaks of population, that should be Exhibit A-158. The sentence right below, the average of class rates, et cetera, to Louisiana points as shown by sheet No. 6 refers to Exhibit A-168. A list of points on that sheet is a list of representative points scattered over the state. It is not confined to this territory represented by the division from Monroe, Alexandria, and Shreveport. I have taken the representative points throughout the state. The basis reached on sheet No. 5 of Exhibit A-170 would apply to the whole state and accord the southwestern lines the spread in the rates as their service increases. That is what was intended when through rates were established locally to and from Cairo-Gale-Thebes, Ill., and the same [fol. 985] method should be followed in dividing joint through rates to and from Chicago territory. Percentages so arrived at should be applied in division of all joint through rates regardless of how made, which will bring about an equitable distribution of the revenue on through commodity rates. The divisions via Cairo-Gale-Thebes, Ill. on Arkansas traffic that I have proposed for the Western Trunk Lines are as much in excess of the divisions proposed via St. Louis, Mo.-East St. Louis, Illinois as reflected in the local rates between Chicago and Cairo-Gale-Thebes, Illinois, as compared with St. Louis, Missouri-East St. Louis, Illinois (Tr. 5316-5317-5318).

(The statement described by the witness was thereupon received in evidence as Exhibit A-170.)

[fol. 986] My Exhibit No. A-171 comprises six sheets and covers the rates and divisions between Milwaukee Territory and Louisiana points previously described via St. Louis, Missouri-East St. Louis, Illinois. As previously pointed out, the through rates between Milwaukee Territory and Louisiana points were higher than the rates between Chicago Territory and Louisiana points to the extent of the spread in the differentials over the base point, East St. Louis, that is 6 cents per 100 pounds on first-class and relative lower differentials on the remaining classes. This differential was reflected in the divisions. The Southwestern Lines received Chicago revenue to and from points in the Shreveport-Alexandria-Monroe Group and the Western Trunk Lines received Chicago revenue plus the spread

in the differentials Milwaukee Territory over Chicago Territory (Tr. 5319).

When the Milwaukee differentials were eliminated and the Chicago differentials substituted to apply to and from Milwaukee Territory, the joint through rates were reduced to the extent that the differentials were reduced, however, the Southwestern Lines continued to allow the Western Trunk Lines Chicago revenue plus the original spread in the differentials and this basis is in effect at the present time, so that the Southwestern Lines ever since have secured the entire reduction. This is reflected by an observation of Sheet No. 1, and other sheets of this exhibit on which I have shown that the Western Trunk Lines receive currently 30 per cent plus the original spread, Milwaukee Territory over Chicago Territory, as advanced under the several general advances and the general reduction of 1922, beginning with 9 cents per 100 pounds on first class with lower spreads on the remaining classes. This situation exists between Milwaukee Territory and Louisiana points in the Shreveport-Alexandria-Monroe Group. To and from other points in Louisiana the Texas percentages are applied which [fol. 987] allows Western Trunk Lines 20 per cent on Classes 1, 2 and 3 and 22 per cent on the remaining classes, so that on the classes subject to the 22 per cent as well as on commodities on which the 22 per cent division applies to the extent of two percentage points of the through rates is assumed by the Southwestern Lines as against Chicago revenue (Tr. 5319-5320).

It will be noted that on some of the lower classes the Western Trunk Lines would receive in excess of their local rates so that in such cases under the provisions of the division sheets the Western Trunk Lines would receive their current local rates, however, the shrink in the divisions by the Southwestern Lines below their local rates far exceed the shrink by the Western Trunk Lines on the classes on which the Western Trunk Lines division is less than their current local rates, and on the classes on which the Western Trunk Lines divisions exceed their local rates, and on which they automatically receive their current locals as their actual division, the Southwestern Lines assume the entire shrink between the combination of locals and the actual differentials used in the construction of through rates. For

example, at Monroe, Louisiana, the Western Trunk Lines receive on fifth-class 4.1 cents in excess of their local rates under the divisional arrangement, so that they would actually receive in division their full current local rate and the Southwestern Lines would shrink 20 cents per 100 pounds below their full current local rate. The situation at Monroe shown there that it was based on the Western Trunk Lines receiving in excess of their local rate. They are automatically restricted to the local rate. I haven't shown their rate, so my testimony brings out the actual shrink which the Southwestern Lines make, which is 20.1 cents (Tr. 5320-5321).

[fol. 988] The same situation exists at other points, however, at Louisiana points that are subject to the Texas percentages the Western Trunk Lines are shrinking below their local rates, but the Southwestern Lines shrink amounts below their local rates that are substantially in excess of the shrink being made by the Western Trunk Lines. The position of the Southwestern Lines is that on traffic between Milwaukee Territory and all Louisiana points, the Southwestern Lines should receive Chicago revenue the same as they received originally when the through rates between Milwaukee Territory and Louisiana points were on a differential basis higher than Chicago territory, which spread as before stated accrued to the Western Trunk Lines. There is no reason why the Southwestern Lines should have assumed this entire shrink, and as I have shown before by previous exhibit, the Western Trunk Lines carry higher local rates, also higher proportional rates between Milwaukee Territory and St. Louis, Missouri-East St. Louis, Illinois, Cairo, Illinois and all Ohio River Crossings east thereof, also to and from Mississippi Valley points as to and from Chicago, so that there is no reason why the Southwestern Lines currently should receive less than Chicago revenue, and this situation should be extended from the time that the Milwaukee differentials were discontinued (Tr. 5321-5322).

The Southwestern Lines are of the opinion that the specifics proposed for application between Milwaukee Territory and Arkansas points should reflect the revenues for the Western Trunk Lines, and that the average of the specifics on the 10 classes referred to should be the factor

for the Western Trunk Lines, and the balance of the through rates on the 10 classes for the Southwestern Lines should be averaged and percentages arrived at which should be published between Milwaukee Territory and each point in the [fol. 989] State of Louisiana, which when applied to the class rate would produce approximately the same specifics as previously proposed on Arkansas traffic. In connection with my previous exhibit I have explained the reason for this. These percentages ought to be applied to the division of all joint through rates, and will result in a staple basis of divisions, and which should not change with revisions in the local rates of the Western Trunk Lines or the Southwestern Lines unless there be a corresponding change in the joint through rates, nor should exceptions be made in the division of commodity rates now in effect or that may be established hereafter. I have also previously pointed out that on traffic between Milwaukee, Wisconsin, and the so-called trans-Missouri Territory, involving the states of Oklahoma, Kansas, Nebraska, Colorado, Utah and Southwest Missouri, the lines west of the Missouri River receive Chicago revenue, and there is no reason why the Southwestern Lines should not receive Chicago revenue via the St. Louis, Missouri-East St. Louis, Illinois gateways between Milwaukee Territory and Louisiana points (Tr. 5322-5323).

On the other hand, if the Western Trunk Lines are not in a position to accept the same revenue between Milwaukee Territory and East St. Louis as proposed between Chicago Territory and East St. Louis on Louisiana traffic the remedy is not one of divisions. Certainly it is not incumbent upon the Southwestern Lines to shrink their revenue to the extent of the elimination of the Milwaukee differentials as we have done for a number of years as previously pointed out (Tr. 5323-5324).

(The statement described by the witness was thereupon received in evidence as Exhibit A-171.)

[fol. 990] Referring to the first sheet of Exhibit A-171, the 30 per cent north of East St. Louis on the first class taking the rate from Bastrop, Louisiana, of 64.8 cents, the 9 cents appears immediately below that and is the original differential or spread Milwaukee Territory over Chicago

Territory advanced, or 6 cents advanced 25 per cent, then 35 per cent and reduced 10 per cent. In other words, the total division on Milwaukee territory to Bastrop on the first class is 73.8 cents. The $2.16 rate first class to Bastrop is the through rate from Bastrop to Milwaukee and is also the Chicago rate (Tr. 5324).

My idea is that out of the $2.16 we should take the same revenue south of East St. Louis as we take on traffic from Chicago. I don't think that at the present time the Northern Lines are entitled to anything additional for the additional haul. The reason for this is that originally as I have previously pointed out Milwaukee enjoyed a differential over Chicago. The Southwestern Lines at that time received Chicago revenue and the lines north of East St. Louis received from Milwaukee Territory that spread over the Chicago rate or 6 cents originally. Now since that differential was eliminated entirely, the Southwestern Lines are continuing to allow the Western Trunk Lines that same revenue and we are doing the shrinking by reason of that elimination of the Milwaukee differential. We are not still taking 70 per cent of the Chicago rate less 6 cents. That is where the trouble is. The rates are published by Chairman Leland, The Southwestern Freight Bureau (Tr. 5325).

My Exhibit No. A-172 comprises six sheets and covers divisions between Milwaukee Territory and Louisiana [fol. 991] points previously described via Cairo-Gale-Thebes, Illinois. It will be again observed that the Western Trunk Lines currently receive between Milwaukee Territory and Louisiana points in the Shreveport-Alexandria-Monroe Group 40 per cent plus the original spread, Milwaukee differentials over Chicago as advanced under the several general advances and the general reduction of 1922, and that currently in practically all cases the Western Trunk Lines on that basis would receive in excess of their full current local rates. Automatically in such cases the Western Trunk Lines receive their full current local rates by reason of the restrictions in the division sheets to the lines north and the lines south of Cairo-Gale-Thebes to their local rates as maximum. On the other hand, the Southwestern Lines are shrinking substantial amounts below their local rates between Cairo-Gale-Thebes and the

Louisiana points referred to, for example, at Monroe, Louisiana, the Western Trunk Lines on the differential basis now in effect would receive 8.8 cents in excess of their local rates, so that in division of through rates made by the use of the Chicago differentials the Western Trunk Lines would actually receive their full current local rate of 34 cents per 100 pounds, and the Southwestern Lines would receive 26 cents per 100 pounds less than their current local rate (Tr. 5326).

I have already described the situation with respect to the divisions between Milwaukee Territory and Louisiana points via St. Louis, Missouri-East St. Louis, Illinois, and the basis via Cairo, also the divisions between Chicago Territory and Louisiana points via Cairo-Gale-Thebes Illinois. The Southwestern Lines originally received Chicago revenue, and they should have continued to receive Chicago revenue following the elimination of the original Milwaukee [fol. 992] differentials. Further, the divisions between Milwaukee Territory and Louisiana points in the opinion of the Southwestern Lines should be as much more than the basis proposed via East St. Louis as is reflected by the spread in the class rates between Milwaukee Territory and Cairo-Gale-Thebes, Illinois, over St. Louis, Missouri-East St. Louis, Illinois, and specifics so arranged on the classes should be converted into percentages which would automatically allow the Western Trunk Lines approximately the same revenue in division of through class rates as pro- and such percentages should be applied in division of all joint through rates (Tr. 5336-5327).

(The statement described by the witness was thereupon received in evidence as Exhibit A-172.)

[fol. 993] I advocate that on the theory that the Southwestern Lines perform additional service from Louisiana. The rate scales upward for the greater distance, Louisiana versus Arkansas. The cure is not in divisions on this Milwaukee Territory. If the Western Lines carry higher rates locally to Milwaukee from Western Trunk Line points, and to Chicago, I don't see any reason why they can't carry that same spread on Southwestern traffic. The rates published by Mr. Leland and the Western Trunk Line have

given him the power of attorney to publish those rates for their account. I think Mr. Dana covered this point in his testimony in which he pointed out that a joint conference was arranged at the suggestion, I believe, of Mr. Brown, who as I recall it was then Chairman of the Chicago and St. Louis Traffic Association. Evidently that arrangement was concurred in by the Southwestern Lines or the rates would not be published (Tr. 5527-5528).

Normally the Western Trunk Lines or the Northern Lines would be entitled to more revenue on traffic hauled from Milwaukee than on traffic hauled from Chicago, and they are receiving it today and they have been all these years. We have been assuming that entire shrink and that is where the difficulty comes in. There might have been some merit to this proposition if this shrink had been absorbed partly by Western Trunk Lines, but the Southwestern Lines have assumed it entirely in this divisional arrangement. I am pointing out that if the Western Trunk Lines can and if they do maintain higher rates from Milwaukee Territory locally and proportional rates to Mississippi River and Ohio River Crossings and Mississippi Valley points, if in their judgment they can not afford to allow the Southwestern Lines on Milwaukee traffic, then I think the remedy lies in increasing the rates to the same extent, as you carry them from Mississippi Valley and Ohio River crossings to Chicago. That difference originally existed. [fol. 994] Now I don't see any difference, Mr. Towner, between this territory and the territory, the trans-Missouri territory. You have the same rates from Chicago to the trans-Missouri. The lines west of the Mississippi River have always received trans-Missouri—there's where the Western Trunk Lines receive the same revenue between Milwaukee and the Missouri River as between Chicago and the Mississippi River Crossings. If they perform the additional haul north of Chicago, they should not get any additional revenue under the divisional arrangement. I don't know why the Chicago rates were extended to Milwaukee. I hav-n't gone into that (Tr. 5329-5330).

On page 2, Exhibit A-172, there are some Louisiana points where the Milwaukee arbitrary so called does not apply. That is true of this 20 and 22 per cent. The fact that the northern lines take a shrink of 45½ cents out of the

local rate of 96½ cents may not be a proper proportion looking at this in and of itself, but as I pointed out, the rates from St. Louis-East St. Louis to points in Western Wisconsin and following southward to points in Louisiana, gradually increase. Now the service of the Western Trunk Lines between Milwaukee and between Chicago and East St. Louis is approximately uniform. Now these rates from St. Louis-East St. Louis advance because of the greater service. Now whatever division is proper on Arkansas traffic, I say the Western Trunk Lines should not receive any more than they do, than that same division on Louisiana traffic. Their division should not change or fluctuate. This situation is largely because your Milwaukee rates are on the Chicago basis. Part of that is caused by that (Tr. 5330-5331).

In that case the Western Lines don't get the 9-cent arbitrary. That is where really on classes four and lower, the northern lines receive 22 per cent or two percentage points [fol. 995] higher than Chicago (Tr. 5332).

My Exhibit No. A-173 comprises four sheets and covers the rates and the divisions between Chicago Territory west of the Mississippi River and representative Louisiana points via St. Louis, Missouri-East St. Louis, Illinois. The joint through rates are the same as to and from Chicago Territory east of the Mississippi River, and are constructed by the use of the same differentials over the base point, East St. Louis, Illinois. The divisions currently in effect are also the same as to and from Chicago Territory east of the Mississippi River (Tr. 5332-5333).

I have shown on Sheet 1 the result in cents per 100 pounds on each class to the Western Trunk Lines and to the Southwestern Lines, and the amount in cents per 100 pounds in each class that the divisions received by the Western Trunk Lines exceed the differentials, also the amounts in cents per 100 pounds on each class that the divisions received by the Southwestern Lines are less than their current local rates. There is also shown as information the divisions in effect prior to November 28, 1896, or 25 per cent to the Western Trunk Lines and 75 per cent to the Southwestern Lines with the result in earnings in cents per 100 pounds on each class for the Western Trunk Lines and the Southwestern Lines. A comparison is shown of the earnings received by

the Western Trunk Lines on Monroe-Alexandria-Shreveport traffic on this sheet as compared with the earnings on each class received by the Western Trunk Lines on traffic to or from Little Rock, Arkansas, and it will be observed that the Western Trunk Lines currently receive greater revenue in division on each of the class rates as they receive currently on Little Rock, Arkansas, traffic. The current earnings of the Western Trunk Lines also exceed the current earnings applicable on Arkansas traffic to and from Chicago Territory east of the Mississippi River to a much [fol. 996] greater extent as between Chicago Territory west of the Mississippi River and Little Rock, for example, on fifth-class the Western Trunk Lines currently receive 32.1 cents per 100 pounds, whereas, between Chicago territory east of the Mississippi River and Arkansas points, the Western Trunk Lines currently receive 20.5 cents per 100 pounds (Tr. 5333-5334).

On Alexandria-Shreveport traffic, the situation is about the same. On Sheets 2, 3 and 4, there is shown the divisions to and from Lake Charles, Lafayette and Donaldsonville. The Western Trunk Lines currently receive Texas percentages according to the understanding of the Southwestern Lines, and as Chicago Territory west of the Mississippi River on Texas traffic is subject to varying percentages for the Western Trunk Lines depending upon the origin or destination in Iowa, it is necessary to select representative points, and indicate the divisions opposite each with the result in earnings for both groups of lines on each class. There is also shown the average divisions for the Western Trunk Lines, and for the Southwestern Lines based on the divisions to and from the representative Iowa points shown, and the shrink assumed by the Southwestern Lines in the divisions below their local rates. There is also shown the divisions between Chicago Territory in Illinois and the same Louisiana points on the basis of the Chicago Territory percentages applicable between Illinois points in that territory and Texas, from which it will be observed that the Western Trunk Lines to and from Chicago Territory west of the Mississippi River on the average receive greater earnings than to or from Chicago Territory east of the Mississippi River, although the same joint rates are in effect (Tr. 5334-5335).

The Southwestern Lines maintain that to and from Chicago Territory west of the Mississippi River and all interior Louisiana points with the exception of points within the [fol. 997] port limits of New Orleans, and excepting Vidalia, Louisiana, that the Western Trunk Lines should receive in division of the through rates no greater earnings than to or from points in Arkansas as proposed by the Southwestern Lines in division of through class rates, and that percentages ought to be arranged in the manner previously indicated and applied in the division of all joint through rates class or commodity, so that the increase in the rates to and from Louisiana points over Arkansas will automatically accrue to the Southwestern Lines where such increase exists, and where it does not exist, the distribution of revenue on basis indicated will in the opinion of the Southwestern Lines provide an equitable distribution of the difference between the through commodity rates and the through class rates. There is no justification for allowance to the Western Trunk Lines of greater revenue on Louisiana traffic than on Arkansas traffic, which has been shown by this exhibit is the situation at the present time to and from points in the so-called Shreveport-Alexandria-Monroe Group, and to a substantial extent to and from Lake Charles, Lafayette and Donaldsonville on the basis of the current Texas percentages (Tr. 5335).

(The statement described by witness was thereupon received in evidence as Exhibit A-173).

[fol. 998] I have not prepared an exhibit via Cairo-Gale-Thebes, Illinois. Via those gateways the Western Trunk Lines receive 40 per cent to and from the Shreveport-Alexandria-Monroe Group, and Texas percentages to and from other Louisiana points, so that insofar as the Shreveport-Alexandria-Monroe Group is concerned, the same situation prevails as previously outlined in connection with Chicago territory east of the Mississippi River.

On certain parts of this traffic the Western Trunk Lines perform a substantially greater haul to Chicago territory west of the Mississippi River than they do from Chicago to the territory east. On the average, the mileage to this territory is worse than the mileage from Chicago to territory east; but taking Chicago territory, which is right im-

mediately south of Fox River territory and comparing that with northern Illinois, while from the eastern half of the Chicago Territory I think your mileage would compare somewhat with your mileage from northern Illinois. I used that all over Illinois (Tr. 5336).

There is no doubt that the average mileages from Chicago west of the River would be higher than the averages east of the River. Ordinarily it would justify higher earnings to the Western Trunk Lines, on that traffic west of the Mississippi River. I am coming to the point that I mentioned yesterday, that I think the differentials of the Chicago Territory have been extended entirely too far because immediately north of this Chicago territory west of the River we have Fox River Territory with very substantial differentials. That is another situation brought about by the publication of the through rates. Now on this Fox River Territory there is where the lines north naturally receive that spread, the Western Trunk Lines receive the spread over Chicago. It is true that this territory group I presume has been in effect for a number of years, I don't know how long, but looking at the map that I made of that territory [fol. 999] there, it seems to me that there ought to be some change in that differential, especially from the Western part of that territory (Tr. 5337-5338).

My Exhibit No. A-174 comprises five sheets and covers rates and divisions between Omaha-Davenport Territory and is located south of Chicago territory, and the through rates are constructed by the use of lower differentials over the base point, St. Louis, Missouri, than the Chicago Territory differentials. To and from the Shreveport-Alexandria-Monroe Group the Western Trunk Lines receive 27.5 per cent, and the Southwestern Lines 72.5 per cent. The earnings for both groups of lines on each class have been shown on that basis, and I have also shown the shrink of the Southwestern Lines in their divisions as compared with their local rates between St. Louis, Missouri, and Louisiana points mentioned. It will be observed that the shrink of the Southwestern Lines is very substantial below their local rates; for example, on first class it is 35.7 cents and on fifth class 21.7 cents per 100 pounds. The basis for the percentages of 27½ per cent for the Western Trunk Lines and 72½ per cent for the Southwestern Lines were arranged so as

nearly as possible to accord the Southwestern Lines the same revenue as on Chicago Territory traffic. This will be observed from the exhibit itself on which the Chicago earnings are shown for the Southwestern Lines so that the Western Trunk Lines receive as much less than Chicago revenue as is reflected by the spread in the differentials Chicago Territory as compared with Omaha-Davenport Territory over the base point, St. Louis, Missouri (Tr. 5338-5339).

What I have said with respect to the Shreveport-Alexandria-Monroe Group is not the case with respect to other Louisiana points as indicated by Sheets 2, 3 and 4 of this exhibit. On the latter sheets I have shown representative Iowa points located in Omaha-Davenport Territory, and one point in northern Missouri, and have shown the earnings based on Texas percentages. It will be observed that [fol. 1000] the average of the earnings received by the Western Trunk Lines of the points in Iowa and Missouri as shown are approximately the same as the Western Trunk Lines receive to and from Chicago Territory east of the Mississippi River, so that the Southwestern Lines are assuming the spread in the differentials Omaha-Davenport Territory under Chicago Territory which is not proper. The situation should be the reverse, but by the application of the Texas percentages the present situation has been brought about due no doubt to the many readjustments in the rates between St. Louis, Missouri, and Louisiana points. Between Omaha-Davenport Territory and all interior Louisiana points except points within the switching limits of New Orleans and excepting Vidalia, Louisiana, the Western Trunk Lines in the opinion of the Southwestern Lines should receive no greater revenue than proposed by the Southwestern Lines for application between Omaha-Davenport Territory and points in Arkansas as previously outlined, and percentages ought to be arranged to and from each point in Louisiana and applied to all traffic which will also result in the Western Trunk Lines receiving approximately the same revenue on Louisiana traffic as on Arkansas traffic moving under class rates, and in division of through commodity rates it will result in an equitable distribution of the shrink between the through commodity rates and the through class rates for both groups of lines (Tr. 5339-5340).

There has been shown on Sheet No. 5 of this exhibit the local rates between Iowa and Missouri points shown in previous sheets, and St. Louis, Missouri, and it will be noted by a comparison of the divisions received by the Western Trunk Lines that in some cases their earnings are almost equal to their current local rates, and in some instances particularly on fifth class they exceed the current local rates, so that where this condition exists the Western Trunk Lines receive their current local rates as their division by reason [fol. 1001] of the division sheets limiting the lines north and south of St. Louis to their local rates as maximum. There are no divisions published between points in Omaha-Davenport Territory and Louisiana points via Cairo-Gale-Thebes, and there is little necessity therefor, because practically all of this traffic is interchanged at St. Louis, Missouri, however, the joint through rates are applicable because there are no restrictions in the tariffs against the Cairo-Gale-Thebes Gateways, so that divisions should also be published via the Cairo-Gale-Thebes Gateways on the basis of according the Western Trunk Lines the same as proposed for application on Arkansas traffic, and percentages arrived at for application on all traffic (Tr. 5340-5341).

(The statement described by the witness was thereupon received in evidence as Exhibit A-174.)

[fol. 1002] I think I said something to the effect that the Texas percentages based on the local rates on that traffic. I think I made some comment in my testimony on that point. As to Sheet 1, I said there has been shown the local rate between Iowa and the Missouri points. That is wrong, that should be Sheet No. 5 (Tr. 5341-5342).

I didn't dwell on the divisions from Chicago territory and Milwaukee territory via Kansas City. I said that the lines west got the same revenue from both. But I only dealt with the St. Louis-East St. Louis, and Cairo gateways. I didn't deal with the Kansas City gateway on Louisiana traffic at all. By way of comparison I said that on the traffic from Chicago and Milwaukee territory to and from the trans-Missouri territory, the lines west took the same revenue. That is, the same revenue as Chicago, but not the same divisions as through St. Louis. The divisions via Kansas City and via St. Louis are entirely different

on trans-Missouri territory. The divisions from Chicago territory to Louisiana points, that is the Shreveport group as I recall it, are 40 per cent east of Kansas City as against 30 per cent east of the St. Louis gateway. That is on Chicago territory. The distance from points in the western half of the Chicago territory located west of the Mississippi River to Kansas City is naturally less than the distance from the same points to the St. Louis gateway, although their division is greater of course to Kansas City than to St. Louis, 40 per cent as against 30 percent (Tr. 5342-5344).

My Exhibit No. A-175 comprises one sheet, and covers the rates and divisions between points in St. Louis Territory and representative Louisiana points via St. Louis, Missouri, only. There is not a complete line of divisions to cover all points in St. Louis territory on all lines, and Louisiana points, however, the Wabash and C. B. & Q. Railroads are covered. I have therefore shown the divisions between representative points in Missouri located on the [fol. 1003] C., B. & Q. and Wabash Railroads and Louisiana points. I have selected two points, namely Hannibal and Louisiana, Missouri, located on the west bank of the Mississippi River, two points in the central portion of St. Louis territory, that is Moberly and Mexico, Missouri, also two points located in the western portion of St. Louis territory, namely Carrollton and Chillicothe, Missouri. It will be observed that the Western Trunk Lines receive 20 per cent to and from Hannibal, and Louisiana, Missouri, 27.5 per cent to and from Moberly and Mexico, Missouri, and 30 per cent to and from Carrollton and Chillicothe, Missouri, to and from the so-called Shreveport-Alexandria-Monroe Group. St. Louis territory is located south of Omaha-Davenport Territory, and the through rates are the same as to and from St. Louis, Missouri. St. Louis Territory on Louisiana traffic is comparable with Kansas City Territory on Arkansas traffic, the boundaries of each territory being similar (Tr. 5343-5344).

The joint through rates between St. Louis territory and points in Louisiana are lower than the through rates to or from Chicago or Omaha-Davenport Territories. The hauls of the Western Trunk Lines between points in the eastern and central portions of St. Louis territory are less than to and from points similarly located in Omaha-Davenport

Territory as a general rule, and accordingly, the Southwestern Lines ought to be accorded the same revenue as proposed to and from Omaha-Davenport Territory, to interior Louisiana points with the exception of points within the switching limits of New Orleans and excepting Vidalia, Louisiana, in other words, the Western Trunk Lines should be accorded the same earnings as proposed on Arkansas traffic. This will result in the Southwestern Lines being accorded the spread in the rates Louisiana points over Arkansas. Percentages ought to be arrived at to and from each point in Louisiana using as factors for the Western Trunk Lines the average of the specifics on the ten classes and similarly for the Southwestern Lines, which percentages should be applied in the division of all joint through [fol. 1004] rates, and will result in the Western Trunk Lines receiving in division of through class rates approximately the same earnings as proposed on Arkansas traffic, and in division of through commodity rates an equitable distribution of the shrink between the through commodity rates and the through class rates will result. This will also result in the establishment of percentages between all points in St. Louis Territory and all Louisiana points (Tr. 5344-5345).

No divisions are in effect between points in St. Louis Territory and points in Louisiana via the Cairo-Gale-Thebes Gateways, and there is probably no necessity therefor, as the St. Louis Gateway is the natural route, and no necessity has developed in the past for divisions through the Cairo-Gale-Thebes Gateways (Tr. 5345-5346).

(The statement described by the witness was thereupon received in evidence as Exhibit A-175.)

[fol. 1005] The rate of $1.90½ to Monroe, Louisiana is the joint throught rate from St. Louis territory. That is also the rate to St. Louis. I mean by shrinking the first block in the first class rate .92, the difference between the percentage where the traffic was hauled upon the through rate and where it will be hauled upon the local rate. I don't think we ought to get our local rate on this. I have shown the shrink on the sheet from these various stations, but if you follow my testimony, I did not comment upon how much we were shrinking. I treated the Western Trunk

Lines and the Southwestern Lines impartially in that respect (Tr. 5346-5357).

My Exhibit No. A-176 comprises one sheet and covers divisions on cheese, carload, from Wisconsin Group, including Milwaukee, Wisconsin, to Monroe, Louisiana, via East St. Louis, Illinois. I have shown the through rates from Wisconsin Group, Chicago Group and St. Louis, Missouri, and East St. Louis, Illinois, to Monroe, Louisiana, recently published. It will be observed that the Wisconsin Group, which includes Milwaukee, Wisconsin, carries a spread over the Chicago Group of 18 cents per 100 pounds, and the Chicago Group a spread of 11 cents over St. Louis, Missouri-East St. Louis, Illinois, whereas prior to December 1, 1925, Milwaukee and Chicago Territory third-class differentials over East St. Louis were 18.5 cents per 100 pounds, so that in connection with the present through rates the Chicago spread over East St. Louis has been reduced, and the Wisconsin Group which includes Milwaukee is as much over the Chicago Group as formerly existed over East St. Louis. I mention this as justification for the Southwestern Lines receiving Chicago revenue on all traffic to and from Milwaukee and Fox River Territories, and that there is no reason why the Southwestern Lines should receive Chicago revenue less the original spread of 4 cents which currently is 6 cents over Chicago and which was originally the spread Milwaukee Territory over Chicago. [fol. 1006] The spread in the rates Milwaukee over Chicago Group if any, rightfully accrues to the Western Trunk Lines, and further, this exhibit has been prepared to show that in the opinion of the Southwestern Lines there is justification for a spread in the joint through rates Milwaukee Territory over Chicago on all traffic, and as the local rates between Milwaukee Territory and East St. Louis, Cairo-Gale-Thebes, Illinois, and Ohio River Crossings east thereof, also Mississippi Valley points, are higher than the rates to or from Chicago, this same condition should be reflected in the through rates to and from Louisiana points, so that by allowing the Southwestern Lines Chicago revenue the Western Trunk Lines would receive the spread in the through rates Milwaukee Territory over Chicago for their added service, and the Southwestern Lines would receive Chicago revenue as they did prior to the elimina-

tion of the Milwaukee differentials and substitution of the Chicago differentials therefor (Tr. 5347-5348).

(The statement described by the witness was thereupon received in evidence as Exhibit A-176.)

[fol. 1007] My position is that the rates from Milwaukee should be made and established over the rates from Chicago by increasing the Milwaukee rates as they exist now, then that the Southwestern Lines should take out of the Milwaukee rates, earnings on the basis of the Chicago rates and that the arbitrary over Chicago ought to accrue to the northern lines. That is the way I think it ought to be fixed. But as far as the Western Trunk Lines are concerned today why they are just as good off with the Chicago rate, because they are getting that original spread. The Southwestern Lines are the ones that are suffering, if there are any sufferers. We originally received Chicago revenue at a time when Milwaukee enjoyed a spread over Chicago and the Western Trunk Lines. They received Chicago revenue plus that spread. Now when the Milwaukee differentials were eliminated entirely and the Chicago differential extended, the Southwestern Lines continued to allow the Western Trunk Lines the same revenue that they formerly received on Milwaukee traffic and that is the point that I don't think is right. Now by doing that it would have the same effect on Fox River traffic (Tr. 5348-5349).

The reason I am presenting this exhibit particularly is to show, for example, the Commission made these rates on cheese. The Southwestern Lines are receiving the spread Milwaukee over Chicago, as I recall, participating in that which I don't think we are entitled to, but under the present method of dividing it we are entitled to it. I think that should be done on traffic in both directions. There is very little traffic that moves northbound on these rates. Now lumber may be a situation, but you have got oil where you do enjoy a spread. As I recall it Milwaukee is I think on Chicago basis on lumber. I don't see any distinction (Tr. 5350-5351).

My Exhibit No. A-177 comprises one sheet and covers sugar from interior Louisiana points from which the rates are the same as from New Orleans, Louisiana. In such cases the Western Trunk Lines require the same earnings

[fol. 1008] as on the same traffic from New Orleans, Louisiana, and for that reason I have shown the rates from New Orleans, Louisiana, to Peoria and Chicago, Illinois, Milwaukee, Wisconsin and St. Paul, Minnesota, and the earnings of the Western Trunk Lines and the Southwestern Lines resulting from the application off the New Orleans divisions via St. Louis, Missouri-East St. Louis, Illinois, and via Thebes, Illinois. The Southwestern Lines maintain that whatever the percentages are applicable to and from interior Louisiana points should apply on this traffic, and in justification therefor, I desire to quote the following from decision of the Interstate Commerce Commission in I. C. C. Docket No. 11893, involving divisions on Sugar from interior Louisiana points via rail lines to New Orleans, Mississippi-Warrior service to East St. Louis and Western Trunk Lines beyond, as shown on page No. 537: "The principal question which we must decide, in fixing the fair and equitable divisions of the joint rates in which the Barge Line participates, is how far the conditions extraneous to the service which influence the divisions of the corresponding all-rail rates may justly be taken into consideration. In the process of fixing divisions by agreement, it is customary for the carriers to make full use of such strategetic advantages as the northern lines and the Louisiana Lines enjoy in this instance, both with respect to the joint all rail rates and with respect to the joint rail-barge-rail rates. The northern lines are not interested in the establishment of low blanket rates from Louisiana interior points, and, therefore, in dividing these rates they threw the burden upon the Illinois Central or the Missouri Pacific Railroads. In like manner some of the Louisiana lines are not interested in the movement of the traffic by way of New Orleans, and, therefore they throw a further burden upon the intermediate lines" (Tr. 5351-5352).

[fol. 1009] I am also quoting from the same decision, page 544, the following: "In determining the divisions accruing to the northern lines, there should be deducted from the corresponding all-rail rate, 3 cents per 100 pounds for the bridge crossing at Cairo, and also the division of the originating Louisiana Line, but not to exceed 10 cents per 100 pounds. To the remainder thus obtained should be applied the established percentages used in the case of all-rail sugar traffic from New Orleans" (Tr. 5352).

The above decision of the Interstate Commerce Commission in the opinion of the Southwestern Lines fully justifies their contention that whatever percentages are established for application to and from interior Louisiana points should be applied on this traffic, because an undue burden is placed upon the intermediate lines operating between Louisiana junctions and St. Louis, Missouri-East St. Louis, Illinois, or Thebes, Illinois. The situation is not confined to sugar, but obtains on other commodities produced within the State of Louisiana, such as molasses and syrup, potatoes and cabbage and oyster shells (Tr. 5352-5353).

(The statement described by the witness was thereupon received in evidence as Exhibit A-177.)

[fol. 1010] These divisions apply for example from "points on the M. L. & T. except," then I have noted the exceptions, and then the list of lines shown later. This exception is applicable also to those lines. It does not apply from all points on the Texas & Pacific Railroad and New Orleans, Louisiana. These New Orleans percentages are applied only from and to points in Louisiana on sugar and which points carry New Orleans rates only (Tr. 5353).

The blanket application should be limited by the statement that it only applies where the New Orleans rate has been extended to those points. The trouble could be cured by increasing the rates from the interior points and I suppose that the Louisiana lines could explain the reason for these rates better than I can. I have merely quoted here what the Commission themselves had to say with respect to the division of these rates, their views and their final decision in the case. The Missouri Pacific or the Illinois Central were not represented at that meeting and I have merely quoted the two or three paragraphs from that decision. It does throw an undue burden upon the intermediate lines, there is no question about it. The primary reason for the burden is the extension of the rate made to New Orleans to intermediate points. My next exhibit covers a similar situation on Molasses and Syrup from interior Louisiana points (Tr. 5354).

(The statement referred to by the witness was thereupon received in evidence, as Exhibit A-178.)

[fol. 1011] The same situation applies with respect to Exhibit A-178 as to Exhibit A-177 (Tr. 5354).

My exhibit No. A-179 also covers a similar situation on Potatoes and Cabbage and my Exhibit No. A-180 covers the same situation on Oyster Shells, originating at Berwick, Houma and Morgan City, Louisiana, which are local points on the Southern Pacific Lines in Louisiana. In connection with oyster shells, I desire to mention that one of the Western Trunk Lines have already agreed with the Missouri Pacific Railroad to deduct the proportions received by the Southern Pacific Lines to New Orleans and divide the remainder on the New Orleans basis of divisions. If however, through percentages were established in the manner I have indicated a number of times previously in my testimony, and such percentages are applied to the through rates, the situation would be remedied (Tr. 5355).

(The two statements described by the witness were thereupon received in evidence, as Exhibit A-179 and A-180, respectively.)

[fol. 1012] My Exhibit No. A-181 comprises four sheets and covers the division of rates between Chicago, Illinois, and Oklahoma points via East St. Louis, Illinois. Currently the Western Trunk Lines receive Missouri River proper revenue on this traffic. The divisions between Chicago, Illinois, and points taking same rates, and lower Missouri River Crossings via East St. Louis are 47½ per cent for the Illinois Lines and 52½ per cent for the lines between St. Louis, Missouri, and lower Missouri River Crossings, first deducting river transfer of 8 cents per 100 pounds on the first four classes and 3 cents per 100 pounds on all other classes. These divisions were arranged in 1892, and the same basis obtains to and from points in Kansas and Nebraska, also Southwest Missouri (Tr. 5355-5356).

Between Chicago Territory and practically all of the territory in Kansas, Nebraska and Southwest Missouri, including Oklahoma points, the through rates were on the full Kansas City, Missouri, combination and it was then proper to allow the Western Trunk Lines Missouri River proper revenue. I have been unable to obtain the tariffs as far back as desired, however, I have shown on Sheet No. 1 the

through rates between Chicago, Illinois, and Oklahoma City, Oklahoma, also the local rates between Chicago, Illinois, and Kansas City, Missouri, and the local rates between Kansas City, Missouri, and Oklahoma City, Oklahoma. It will be observed that the combination on Kansas City in 1894 and 1896 on some of the classes at that time were the same as the joint through rates, and on some of the classes the through rates were somewhat lower than the combination. The through rates and the combinations on succeeding dates shown on Sheet No. 1 of this exhibit indicate the spread between the combinations over Kansas City and the through rates gradually became greater, so that currently the through rates between Chicago, Illinois, and Oklahoma City, Oklahoma, are considerably less on each class than the full Missouri River combinations, not- [fol. 1013] withstanding which the Western Trunk Lines are receiving full Missouri River revenue and the lines between St. Louis, Missouri, and Oklahoma City, Oklahoma, assume the entire shrink between the full combination over Kansas City and the joint through rates, and the Western Trunk Lines continue to receive full Missouri River revenue the same as they did originally when the joint through rates were on the full Missouri River combination. What I have said with respect to Oklahoma City is true of all other Oklahoma points (Tr. 5356-5357).

On Sheets 2, 3 and 4 of this exhibit I have shown the divisions between Chicago, Illinois, and scattering points in Oklahoma. Taking Woodward, Oklahoma, shown at the top of Sheet 2, I have shown the current joint through rates, also the current combinations over Kansas City and the amounts on each class that the Kansas City combination is in excess of the through rates. In Block "C" I have shown the current percentages to the Western Trunk Lines and to the Southwestern Lines, and the result in divisions to each group of lines in cents per 100 pounds on each class. In Block "D" I have shown what the lines between Chicago, Illinois, and East St. Louis, Illinois, would receive currently if the proportions as agreed to via Kansas City, Missouri, were subdivided via East St. Louis, Illinois, on agreed percents, and the divisions that would accrue to the Illinois Lines on each class on that basis. In Block "E"

I have shown a similar information except that I have used a division of 50 per cent for the Illinois Lines instead of 47½ per cent, the latter being the agreed division in subdividing the agreed proportions east of Kansas City (Tr. 5357-5358).

In Block "F" I have shown the current divisions received by the Illinois Lines between Chicago, Illinois, and points taking same rates, and East St. Louis on traffic to or from Woodward, Oklahoma, which is based on the Illinois [fol. 1014] Lines receiving full Missouri River revenue. A comparison of the divisions received by the Illinois Lines as shown in Block "F" compared with Blocks "D" and "E" indicate that the Illinois Lines are receiving substantially in excess of what they are rightfully entitled to. There is also shown in Block "F" the revenue on each class accruing to the lines between East St. Louis, Illinois, and Woodward, Oklahoma. By a comparison of the divisions with the local rates from East St. Louis shown in Block "A" it can be readily seen that the lines between East St. Louis, Illinois, and Woodward, Oklahoma, are making substantial shrinks in their earnings below their local rates from East St. Louis, whereas, when the rates at one time were on the full Missouri River combination the shrink by the lines from East St. Louis, Illinois, and Woodward, Oklahoma, are making substantial shrinks in their earnings below their local rates from East St. Louis, whereas, when the rates at one time were on the full Missouri River combination the shrink by the lines from East St. Louis to Woodward, Oklahoma, were not proportionately as great as they are at the present time, because as pointed out the through rates currently are considerably lower than the Missouri River combination (Tr. 5358).

This same situation obtains at all other Oklahoma points, and for the purpose of this proceeding I have shown the same information with respect to divisions between Chicago, Illinois, and Enid, Oklahoma City, Muskogee, Lawton and Ardmore, Oklahoma. With the exception of Muskogee, Oklahoma, the percentages shown as accruing to the Western Trunk Lines east of Kansas City, Missouri, reflect the recent agreement made effective July 1, 1925 as

approved by the Interstate Commerce Commission in connection with I. C. C. Docket No. 15234. It certainly cannot be said that the lines between Chicago and points taking same rates and East St. Louis, Illinois, are not receiving sufficient revenue in the division of through rates on Oklahoma traffic, and if measured by the circumstances related, [fol. 1015] the Southwestern Lines are not justified in allowing the Western Trunk Lines in excess of their percentage proportion of the agreed proportions east of Kansas City. A substantial portion of the Oklahoma traffic handled through the East St. Louis gateway moves through Kansas City, Missouri, and is there delivered to or received from connecting lines, which lines rightfully receive the same earnings as via the direct lines between Chicago territory and Kansas City, so that in cases of that kind the entire burden rests upon the lines between East St. Louis and Kansas City. A substantial portion of this traffic is also interchanged with connecting lines at interior Kansas and Oklahoma junctions, and on all such traffic the lines between Chicago and East St. Louis, Illinois, receive Missouri River proper revenue, so that the lines operating westward from East St. Louis must assume the entire proportions of such connecting lines (Tr. 5358-5359-5360).

(The statement described by the witness was thereupon received in evidence as Exhibit A-181.)

[fol. 1016] The 8 cent deduction does not go to the lines west of East St. Louis. That goes to the Transfer Company. The Western Lines pay the transfer companies and the Illinois Lines participate in that transfer to the extent of 47½ per cent. We pay the terminals these amounts on the first class rates. On most of this traffic there are two terminal services involved. One is the Terminal Railroad Association of St. Louis, when the traffic crosses the Mississippi River in cars and is taken to freight houses and another transfer service when the traffic is taken from the freight house of, for example, the Wabash or the C. & E. I. or any other line on the West bank. It is reassembled and delivered to the West Side lines at their warehouses which are located at distant points somewhere. That is hauled sometimes by car and sometimes by dray. The sum of the two is in excess of this (Tr. 5360-5361).

On the through carload traffic I think the first class charge as I rceall it is 5 cents per hundred pounds. The other 3 cents would automatically accrue to the West Side Lines and they would receive that much in excess of their actual amount they paid out. They get 8 cents and would be ahead 3 cents. In other words, where drayage is in excess of 8 cents and there is a majority of this traffic, or a good big portion of this traffic at least which is drayed (Tr. 5361).

I wouldn't say that most of the traffic from Oklahoma comes to East St. Louis direct and not through Kansas City. I could only speak in that case for the Missouri Pacific. Naturally the Missouri Pacific would handle the most of its traffic through the St. Louis gateway. In some cases it would pass through Pleasant Hill, a junction point immediately south of Kansas City, but not right directly through Kansas City in all cases, unless the car was to break bulk at Kansas City, then it would be necessary to take it through Kansas City. On through traffic we don't [fol. 1017] haul through Kansas City. My proposal is that the lines north of East St. Louis should take 47½ per cent of the Oklahoma division which accrues east of Kansas City. From Woodward to Oklahoma that would give the lines north of St. Louis 34.3 cents. The local rate from Woodward to East St. Louis is not shown here. I don't recall what it is (Tr. 5362-5363).

What I want to bring out particularly with this exhibit is this, that there is no fault to be found with these divisions when they were originally established. The rates were on the Kansas City combination and I think the lines between Chicago and East St. Louis were rightfully entitled to Missouri River proper combinations. There can't be any question about it. Now I tried to point out by this exhibit that from time to time these joint through rates became less or lower and today you can scarcely find a single rate that is on the full Missouri River combination; notwithstanding that fact the lines between Chicago and East St. Louis and Missouri River points continue to receive Missouri River proper revenue. Now they certainly are receiving sufficient revenue when they continue to receive Missouri River proper revenue. That situation applies to all points in Chicago territory east and west of the Mississippi River. To

the territory west of the Mississippi River there I don't think any of that traffic would move through East St. Louis. It would move through Kansas City (Tr. 5363-5364).

I can't say that I am advocating a change here in these divisions north of St. Louis from 54 cents first class from Woodward down to 34.3 cents. I am just trying to point out that certainly the Western Trunk Lines are receiving sufficient revenue on the divisions of these through rates via East St. Louis; that they are now getting enough. I am trying to point out what the Western Trunk Lines would receive if these proportions east of Kansas City as recently agreed upon in connection with certain lines were subdivided on a certain percent, either 47½ or 50 per cent. It shows that they would get considerably less than they [fol. 1018] are receiving today. This question of division on Oklahoma traffic via East St. Louis, namely 47½ per cent of the local rate from Kansas City to Chicago was discussed as late as 1923. There was no insistence on our part that the basis which is now in effect was retained at that time. It seems that no one in Chicago knew what the basis was until I produced the original record and there wasn't any discussion as to the merits of it except to fix that division east and bring it up on that basis, that is all. I think that the Western Lines pay the transfer companies at St. Louis for bringing the L. C. L. traffic over to them $1.92 per ton, and I think it was a recent agreement that was made by the West Side lines with these transfer companies so as to eliminate all the accounting on the various classes. To take a simplified basis, that was an average arrived at (Tr. 5364-5365).

My next Exhibit No. A-182 comprises three sheets and covers divisions on petroleum and petroleum products, carload, from Southern Arkansas and Louisiana points. Sheet No. 1 of this exhibit, covers the divisions via East St. Louis, Illinois. In the first block I have shown the through rates from southern Arkansas and Louisiana points taking the same joint through rates as from Shreveport, Louisiana, as in effect on July 1, 1922 to Chicago, Peoria and Springfield, Illinois, also the divisions in percentages, and the results in cents per 100 pounds to the Western Trunk Lines and to the Southwestern Lines separately on refined, crude and road oil (Tr. 5365).

The divisions of 30 per cent for the Western Trunk Lines and 70 per cent for the Southwestern Lines is the current Shreveport, Louisiana percentages and by agreement as reflected in the copies of letters next below, addressed by Mr. W. I. Jones, A. F. T. M. of the Missouri Pacific Railroad to Mr. C. W. Galligan, Chairman, Illinois Freight [fol. 1019] Association, dated May 31, 1921, and Mr. Galligan's reply for account of the Illinois Lines dated June 30, 1921, indicate that these divisions were acceptable to the Illinois Lines for application on petroleum and petroleum products from Louisiana points taking the same joint through rates as from Shreveport, Louisiana, also from Southern Arkansas points from which the same joint through rates were published as from Shreveport, Louisiana. I have not shown the joint through rates from Louisiana points that are differentially higher than Shreveport, however, the agreement as indicated by copies of communications referred to below Sheet No. 1 indicate that the Illinois Lines agreed to accept the same revenue as from Shreveport, Louisiana. In the next block I have shown the joint through rates established effective October 8, 1922, to Chicago, Illinois, and effective January 28, 1923 to Peoria and Springfield, Illinois, and similarly to Milwaukee, Wisconsin, and Minneapolis-St. Paul, Minnesota, and the divisions accruing to the Illinois and Western Trunk Lines and the Southwestern Lines based on the agreement referred to (Tr. 5366).

It will be noted that the through rates were reduced; however, the Illinois Lines agreed subsequently to continue the original understanding referred to as to divisions. It will be noted that the 30 per cent division which is applicable to Chicago also applies to Peoria and Springfield, Illinois, this because Peoria and Springfield are located in Chicago Territory; however, on refined, crude and road oil, the joint through rates to Peoria and Springfield are lower than to Chicago, so that under the percentage arrangement, the Southwestern Lines receive less to Peoria and Springfield as to Chicago, and this is also true of the Western Trunk Lines; however, because of the shorter hauls between East St. Louis and Peoria and Springfield, Illinois, as compared with Chicago, the Southwestern Lines ought to receive not less than Chicago revenue; however, this

[fol. 1020] would not be fair to the Western Trunk Lines because the 30 per cent division north of East St. Louis is also applicable to Illinois points located in Chicago territory to which the distances from East St. Louis are greater than to Chicago, so that it seems proper that whatever percentages are applied to Chicago territory should be applied to the entire territory as they are; however, that does not indicate that the Southwestern Lines believe that the 30 percent division is proper to Chicago Territory on this traffic as I have previously indicated in connection with the general question of divisions on Louisiana traffic (Tr. 5366-7).

I have also shown the divisions to Milwaukee, Wisconsin, and it will be observed that the spread in the rates Milwaukee, Wisconsin, over Chicago exceed the spread in the divisions received by the Western Trunk Lines, so that this again brings out the point previously made several times that the Southwestern Lines should receive Chicago revenue on traffic to or from Milwaukee and Milwaukee Territory. In this case it would allow the Western Trunk Lines slightly in excess of the divisions as shown. What I have said of Milwaukee Territory is also true of Minneapolis-St. Paul Territory, that is, the Southwestern Lines should receive Chicago revenue, and the Western Trunk Lines should also receive Chicago revenue, plus the spread in the rates whatever that may be. This of course would slightly reduce the earnings of the Southwestern Lines on Milwaukee Territory and Minneapolis-St. Paul territory, because it will be observed that the Southwestern Lines receive slightly greater earnings on Milwaukee and Minneapolis-St. Paul Territories on the basis shown as they receive on Chicago traffic. I have next shown the through rates from North Texas points, and the divisions that have been and are currently in effect. It will be observed that effective October 8, 1922, to Chicago, and effective January 25, 1923 to Peoria and Springfield, Illinois, the through rates from Southern Arkansas and Louisiana points were reduced to [fol. 1021] the same level as from the Oklahoma standard group (Tr. 5367-8).

Following this reduction in the joint through rates, some of our Western Trunk Line friends are exacting Tulsa, Oklahoma revenue. This action was taken without notifica-

tion to, and acceptance by, the Southwestern Lines. Some of the Western Trunk Lines have continued the original agreement. I will speak of this further in connection with succeeding sheets of this exhibit. In regard to the merits of the division of 30 per cent from Shreveport and points in Louisiana taking the same rates, and from points in Southern Arkansas from which the Shreveport rates are published, the Southwestern Lines are of the opinion that the divisions on the current basis shown on this exhibit are excessive to the Western Trunk Lines. Beginning with Southern Arkansas and using Eldorado, Arkansas as a base point, because practically all of the oil coming from Southern Arkansas originates in the vicinity of Eldorado, Arkansas. I have shown first the relationship between the commodity rate on refined oil from Eldorado, Arkansas, to St. Louis, Missouri, and East St. Louis, Illinois, to the fifth-class rate. The commodity rate is 32.8 per cent of the fifth class rate. I have also shown the fifth class current rate from St. Louis, Missouri, and East St. Louis, Illinois to Chicago, using the latter as a base point, and applied thereto the percentage relationship that the commodity rate Eldorado, Arkansas, to St. Louis, Missouri, and East St. Louis, Illinois, bears to the fifth class rate, which would result in a theoretical commodity rate from St. Louis, Missouri, and East St. Louis Illinois to Chicago of 9 cents (Tr. 5368-5369).

Using as factors the theoretical commodity rate of 9 cents for the Western Trunk Lines, and the commodity rate from Eldorado to St. Louis, Missouri and East St. Louis, Illinois the Western Trunk Lines would receive 23.4 percent. [fol. 1022] Reversing the situation by determining the percentage relationship that the commodity rate St. Louis-East St. Louis, Illinois to Chicago, which by the way applies on refined, crude and road oil is of the fifth class rate, St. Louis-East St. Louis, Illinois to Chicago, it will be seen that the relationship that the commodity rate bears to the theoretical rate is 63.6 percent. Applying this relationship to the fifth class rate, Eldorado, Arkansas to St. Louis, Missouri-East St. Louis, Illinois would result in a theoretical commodity rate of 57 cents, Eldorado, Arkansas to St. Louis, Missouri-East St. Louis, Illinois. Using the 57 cent theoretical commodity rate for the Southwestern Lines, and

the commodity rate from St. Louis, Missouri-East St. Louis, Illinois to Chicago as factors, the Western Trunk Lines would receive 23.5 percent. I have next shown a rate prorate from Eldorado, Arkansas based on the fifth class rates for the Southwestern Lines and for the Western Trunk Lines, which would result in the Western Trunk Lines receiving 23.4 per cent (Tr. 5369-5370).

I have also shown the percentage relationship that the through commodity rate Eldorado, Arkansas to Chicago, Illinois bears to the joint through fifth class rate, which it will be observed is 35.6 percent, similarly, on crude oil the relationship is 29.2 percent and on road oil 30.2 percent. Applying the latter percentages to the current fifth class division published in Illinois Freight Association Division Sheet No. 5 of 20.5 percent per 100 pounds applicable between East St. Louis, Illinois and Chicago, Illinois, and points taking same rates, in division of the through fifth class rates, the Western Trunk Lines would receive to Chicago on refined oil 7.3 percent, on crude oil 6 cents and on road oil 6.2 cents. I point out all these circumstances to indicate that the division of 30 percent to Chicago Territory in Illinois received by the Western Trunk Lines currently [fol. 1023] is excessive. On the opposite side of this sheet I have made a similar comparison, using Shreveport, Louisiana as the base point for Louisiana points, and it will be observed that the Western Trunk Lines would receive slightly less from Shreveport, Louisiana as outlined previously from Eldorado, Arkansas. In the opinion of the Southwestern Lines there is no reason why petroleum should be selected for specific treatment in the matter of divisions, so that the basis of arriving at percentages that I have proposed on Arkansas and Louisiana traffic should be applied to petroleum and petroleum products. Additionally on petroleum and petroleum products destined Milwaukee Territory and Minneapolis-St. Paul territory, the Southwestern Lines should receive Chicago revenue as I have previously pointed out in division of the rates on petroleum and petroleum products as well as on all other traffic (Tr. 5370-5371).

The Southwestern Lines have been and are of the opinion that the practice of selecting the principal commodities for special treatment as to divisional arrangements should

be discontinued. This situation generally applies on the principal commodities produced in the Southwest and there are very few exceptions where special treatment in divisional arrangements are made on southbound business. As result of the special treatment on northbound commodities the result is that the Southwestern Lines usually receive less revenue than they would receive by the application of standard divisions, and we desire this practice discontinued. I don't recall the rate which Examiner Seal recommended on petroleum from Louisiana and Arkansas. The revenue of the Southwestern Lines are derived principally on northbound commodities and as a result of this special treatment they generally receive proportionately less revenue than on other traffic (Tr. 5371-5372).

Sheet No. 2 of this exhibit deals with the question of divisions on petroleum and petroleum products from [fol. 1024] Shreveport, Louisiana via the Kansas City, Missouri gateway, and for illustration, I have selected Chicago for discussion. What is true of Shreveport, Louisiana, is also true of other Louisiana points from which the same rates are in effect. It will be observed that effective July 1, 1922, the Western Trunk Lines received 40 percent. This is the agreed Shreveport Division, regarding which there has been no dispute, and there is no dispute on traffic other than petroleum, and the dispute is not one between the Southwestern Lines and the Western Trunk Lines, but is the result of arbitrary action taken by the Western Trunk Lines, by which the Western Trunk Lines have exacted the same revenue on petroleum from Louisiana points taking the Shreveport rates as they receive currently from Tulsa, Oklahoma in division of the rates as established on and after October 8, 1922, which were placed on the same basis as the standard Oklahoma group. I have shown the rates as established on October 8, 1922, and what the Western Trunk Lines and the Southwestern Lines would receive on the basis of the agreed percents (Tr. 5372-5373).

Next I have shown what the Western Trunk Lines are arbitrarily exacting without the consent of the Southwestern Lines, that is, the same revenue as from Tulsa, Oklahoma, which is 52 percent for the Western Trunk Lines. The result in divisions in cents per 100 pounds on refined,

crude and road oil are shown for the Western Trunk Lines and the Southwestern Lines, and it will be observed that in division of the reduced rates from the Shreveport group established October 8, 1922, that the Western Trunk Lines receive considerably in excess of what they formerly receive in division of the higher rates from the Shreveport group at which time there was no dispute whatever. I have shown on sheet 3 the same information with respect to Eldorado, Arkansas. The rates from Southern Arkansas points are the same as from Shreveport, however, there are no divisions from southern Arkansas local points to Chicago ter-
[fol. 1025] ritory or any point in Western Trunk Line Territory located east of the Mississippi River via Kansas City, Missouri, because the Southwestern Lines have never established any divisions and desire none, because the route through Kansas City as compared with the St. Louis gateway is circuitous, however, it is not possible to confine the rates to the St. Louis gateway. I have shown the divisions using Shreveport percentages for the Western Trunk Lines in division of the rates in effect on July 1, 1922, and on the same basis in division of the rates established October 8, 1922. I have also shown in the third block what the Western Trunk Lines are exacting in division of the reduced rates. It will be observed that the Western Trunk Lines are requiring Tulsa, Oklahoma revenue without agreement with the Southwestern Lines, and that in division of the reduced rates from Eldorado, the Western Trunk Lines are receiving greater revenue than they did receive in division of the higher rates based on the Shreveport percentages (Tr. 5373-4).

I have also shown on this sheet the distance from Eldorado, Arkansas, via the Missouri Pacific Railroad to Kansas City, which is 653 miles, and the short line distance from Kansas City to Chicago, on a mileage pro-rate the Western Trunk Lines would receive 41 percent. I have also shown the distance via the Rock Island from Eldorado, Arkansas to Kansas City, which is 892 miles, and the divisions based on an actual mileage pro-rate by the use of the Rock Island Line, which would accord the Western Trunk Lines 33.6 percent. It will be observed from this exhibit that the distance from Tulsa, Oklahoma to Kansas City via the St. L. S. F. Railway is 262 miles, whereas,

from Eldorado, Arkansas via the Missouri Pacific Railway the distance is 653 miles, and via the Rock Island 892 miles, notwithstanding which some of the Western Trunk Lines are requiring and making settlements without agreement with the Southwestern Lines on the basis of Tulsa revenue forcing the Southwestern Lines to handle the traffic from Eldorado to Kansas City, Missouri for distances of 653 [fol. 1026] miles via the Missouri Pacific Railway and 892 miles via the Rock Island for the same revenue as received by the St. L. S. F. Railway or any other line from Tulsa, Oklahoma for a distance of 262 miles (Tr. 5374-5375).

I have also shown the distance from Eldorado to East St. Louis, via the Missouri Pacific Railway, which is 500 miles as compared with the distance from Kansas City, Missouri via the Rock Island. The Missouri Pacific Railway performs 153 miles greater service to Kansas City as to East St. Louis; on the other hand the distance from Kansas City to Chicago via the short line is 173 miles greater than from East St. Louis to Chicago, Illinois using the short line; so that the divisions via East St. Louis, Illinois whatever that may be should be equalized via Kansas City, because the additional service of the Southwestern Lines to Kansas City as compared with East St. Louis is equal to the additional hauls of the Western Trunk Lines from Kansas City as compared with East St. Louis. Several of our Western Trunk Line friends have agreed to apply the agreed percentages in division of the rates on and after October 8, 1922, and there is no reason why all of the Western Trunk Lines should not live up to the original agreement on prior business (Tr. 5375-6).

(The statement described by the witness was thereupon received in evidence as Exhibit A-182.)

[fol. 1027] The rates shown in the last sheet of this exhibit, Eldorado to Kansas City are not applicable. They are in effect. We also have through rates from Cushing via Kansas City at this time (Tr. 5376).

We have few ore shipping points, I believe in Louisiana immediately south of Shreveport proper a short distance where they have differentials down there and under the agreement with the Illinois lines as shown by the correspondence below that first exhibit, why our proposal was and

the Illinois lines agreed to accept, Shreveport revenue in that case there. Those differentials accrue to the Southwestern Lines. The reduction made in 1922 was the same as the Tulsa rate. The reduction had the effect of enlarging the scope of the territory from which the Tulsa rate applied (Tr. 5377).

This reduction had the effect of increasing the service from the territories south from which the distances were greater than from Tulsa. This action was taken by one of the Southwestern Lines by a definite notice and the rates published. All other Southwestern Lines immediately followed that action. I don't think that the effect of that reduction was exactly the same on the revenues of the Western Trunk Lines as the application of the Chicago rates to the Milwaukee territory. Based on what they are doing today, why they took greater revenue out of the reduced rate. That is shown conclusively by these sheets here. They are taking Tulsa revenue, most of them. My contention is that the 30 per cent north applied from the enlarged territory (Tr. 5378).

We had a subsequent agreement with most of the lines north of East St. Louis that they would take the 30 per cent under the reduced rate. To that extent they have participated in that reduction of the rate and the enlargement of the territory. There is a difference in the enlargement of the Chicago territory. We carry these rates all over. We don't confine them merely from Arkansas and Southern Louisiana to Western Trunk Line territory on the Tulsa [fol. 1028] basis. We carry them all over, whereas the Western Trunk Lines on traffic from Milwaukee to the Southwest place their rates on the Chicago basis but locally to East St. Louis and Cairo on their Ohio River crossings and the Mississippi Valley, they carry higher rates and there is that distinction. We reduced the rates and then we reduced the divisions while some of the lines have continued the old divisions, some of the lines are taking more money than they formerly received. That is being done arbitrarily by the Western Trunk Line without notification to us. They are merely taking that revenue, that is some of them (Tr. 5379-80).

We are having trouble not only through Kansas City but are having some trouble through St. Louis. If it moves on

through way bill we are going to have that trouble. On some of the lines we are getting that revenue. Again it may be on some of the lines, it may be possible it is being reduced. There is no connection at all between this 36 cent rate to which I refer and the class basis. The Southwestern Lines are not now getting Chicago revenue on Milwaukee traffic in divisions (Tr. 5380).

Those lines in Western Trunk Line territory that are taking Tulsa revenue are getting it, are getting more out of the reduced rate than they formerly received out of the higher rate; whereas the Southwestern Lines instead of getting the Chicago revenue as they formerly got are getting less than Chicago revenue. The 36 cent rates were established by definite notice of the Western lines. As to the question of concurrences on the Western Trunk Lines, Mr. Leland has power of attorney of all of the Western Trunk Lines that are shown in his tariffs. The Southwestern Lines do not give Chairman Leland that much authority. We legislate on our rates. We don't give him power of attorney to fix any rates as he chooses, but the Western Trunk Lines have given him more power than the Southwestern Lines (Tr. 5381).

[fol. 1029] I don't think Chairman Leland is any more the Southwestern Lines' Chairman than the Western Trunk Lines, not as much so. The Rock Island Railroad is also a member of the Southwestern Tariff Bureau. Any action taken by the Rock Island would extend to Western Trunk Line territory on their own line. The Rock Island in fact is the line that filed the definite notice, as I understood it. That was followed by the other Southwestern Lines operating in the same territory. If other Southwestern Lines had not followed the example of the Rock Island, why the Rock Island would have gotten all the traffic over their own rails to competitive points (Tr. 5382).

The Missouri Pacific was allotted a few of the commodities as I recall it cotton seed products and fruits and facilities vegetables and ores from Arkansas and northern Louisiana and Oklahoma and salt from Louisiana. I didn't have sufficient time to go into the question of divisions on these commodities. I may desire to make a few remarks later, provided there is time.

Exam. Disque: Cross-examine.

Mr. Towner: No cross-examination other than the cross-examination that I have already made (Tr. 5382-3).

A. J. LEHMANN was thereupon called as a witness and testified as follows:

Direct examination:

I am Assistant General Freight Agent, St. Louis Southwestern Railway, St. Louis, Missouri.

(Attorney Towner here conceded the witness's qualifications.)

I have prepared some testimony which will deal with the division of rates on lumber and forest products grouped therewith from the Southwest to Western Trunk Line Territory and Illinois Freight Association Territory via the Cairo-Gales-Thebes and East St. Louis-St. Louis gateways (Tr. 5384).

[fol. 1030] Prior to March 1, 1905 there were no joint through rates in effect on lumber or articles grouped with lumber from shipping points on the St. Louis Southwestern Railway to destinations in so called Western Trunk Line Territory. On March 1, 1905 we issued our tariff 3796, I. C. C. 2201, which published through rates from a limited number of origins to a limited number of destinations. Those rates were a reproduction of joint through rates in effect at that time from points on the St. Louis, Memphis & Southeastern Railway, now the Frisco, and from points on the St. Louis, Iron Mountain & Southern Railway, now the Missouri Pacific. That tariff remained in effect only during a short period because it was found that the through rates contained therein were in excess of the aggregate-of-intermediate rates. We subsequently published our tariff 4690, I. C. C. 2649, effective May 1, 1907, and that tariff named arbitraries from the producing points to Thebes, Illinois and the arbitraries from Thebes to destinations in Western Trunk Line territory, the combination of the two factors representing the total through rates, origin to destination.

In dividing such rates, the lines south of Thebes received their established factor up to that point and for service Thebes to East St. Louis 3 cents per 100 pounds, the lines north of East St. Louis received 3 cents less than their full local rate, from Thebes (Tr. 5385).

Effective March 10, 1908, we published our tariff 2995, I. C. C. 2762, which named through rates in one figure from all of our shipping points to all destinations in Western Trunk Line territory where routing was published via the East St. Louis gateway. These through rates also divided by allowing the lines south of Thebes the local rate and from Thebes to East St. Louis being allowed 3 cents less than the established local rate from Thebes. That basis of divisions remained in effect for quite a period. When that through rate was published it was nothing more nor less than a combination of the local rates via Thebes, Ill. With this 3 [fol. 1031] cents allowance to take care of the service from Thebes to East St. Louis. During the period from March 1, 1905 up until July 31, 1913, there was little or no dispute as between the originating lines and the destination lines, as to the proper divisions to be applied on lumber traffic moving from the Southwest to Western Trunk Line Territory, but on September 2, 1913 the Western Trunk Lines without the knowledge or consent of their Southwestern connections issued what was known as Western Trunk Lines Division Sheet No. 520, making it retroactive effective with August 1, 1913 (Tr. 5586).

The effect of that sheet was to require north of East St. Louis the full local rate, and under the application of that sheet, if it had remained in effect, the shrink necessary to allow the local would have been assumed by the lines south of East St. Louis. The effect of that was also to disregard entirely the established basis for determining rates from the Southwest to Western Trunk Line Territory; that was the Thebes combination. The St. Louis Southwestern Railway had considerable correspondence with it's northern connections in an effort to induce them to withdraw the unauthorized division sheet and reinstate the basis previously in effect which allowed lines to Thebes the local rate and 3 cents per 100 pounds from Thebes to East St. Louis but it's efforts in that direction were unsuccessful. The local

rate north of East St. Louis was 1 cent more than the local rate north of Thebes with the 3 cent deduction. The spread Thebes over East St. Louis at the time these rates were originally established was 2 cents per 100 pounds (Tr. 5387).

In other words we had our local rate to Thebes and from Thebes to East St. Louis 3 cents per hundred pounds. The lines north of East St. Louis got substantially 1 cent per hundred pounds less than our local rate from East St. Louis. We considered it to be not to our interest to continue the then existing rates and allow the increased proportions to lines north of East St. Louis and consequently [fol. 1032] issued a tariff, St. Louis Southwestern Railway No. 6295, I. C. C. 3259, which increased the total through rates in an amount corresponding with the advances demanded by the lines north of East St. Louis.

The difference between our local rate to Thebes and our local rate to East St. Louis was 3½ cents per hundred pounds, the East St. Louis rate being the highest (Tr. 5388).

In connection with this tariff we showed on the title page the following notation "the advanced rates on lumber and other forest products provided herein are the result of readjustments necessary to allow the increased proportion demanded by the lines north of East St. Louis which increased proportions will be allowed effective with the advanced rates." The tariff was not permitted to become effective but was made the subject of suspension proceedings covered by I. & S. Docket 299 reported in 30 I. C. C. 271. In that proceeding the Commission prescribed a division of 18 cents per 100 pounds for the lines south of East St. Louis and the balance for the lines north on the ground that the proportion for the Cotton Belt Railroad south of East St. Louis should not exceed the proportion that other Southwestern Lines at that time were accepting on like traffic moving substantially from the same producing territories to the same points of destination in Western Trunk Line Territory. After the decision in this case the interests of Southwestern Lines and member lines of the Western Trunk Line committee met in conference for the purpose of arranging the publication of a joint division

sheet on lumber from the Southwest to points in Western Trunk Line Territory, the basis for which via East St. Louis was the division prescribed by the Commission in I. & S. docket 299, that is 18 cents per 100 pounds south of East St. Louis and the balance of the through rate for lines north of East St. Louis. The first committee sheet was issued to become effective May 1, 1917 and was known as [fol. 1033] Southwestern Lines Division Sheet No. 27, Western Trunk Lines Division Sheet No. 520-A; so that it may be fairly said at this time that the divisions currently in effect on lumber from the Southwestern producing territory to destinations in Western Trunk Line Territory have already been fixed by the Commission (Tr. 5388-9-90).

I should now like to introduce exhibit No. A-183. This exhibit is a statement of rates and divisions on lumber from representative shipping points in the Southwest to representative destinations in Western Trunk Line Territory. The points selected are, in my opinion, fairly representative of the destinations to which there is a substantial movement of lumber from the producing territory in the south and shows the joint through rates and the divisions there for the beginning with May 1, 1917, which as I have previously stated was the date upon which the first joint division sheet was issued, up until the present time. The arbitraries as of May 1, 1917 will be observed were determined on the basis of using for the lines south 18 cents per 100 pounds and certain specifics which were set forth for the lines north. In the succeeding column is shown the percents which were determined by using the divisional factors up to and beyond East St. Louis. The changes as of March 1, 1920 represent the 5 cents increase prescribed under general order 28 of the Director General. The August 26th changes of course represent the ex parte 74 advance. I will explain the basis for the mileage south of the gateway later (Tr. 5390).

The date August 19, 1921 represents an adjustment that was made in our rates from the Southwest to Western Trunk Line Territory following a reduction that had been made to the same territory of destination from north coast shipping points. The June 12th 1922 changes as shown in

the exhibit are those which resulted from the decision of the Commission in the so called Harwick Case, I. C. C. [fol. 1034] docket 12,995. The july 1st reductions are those prescribed under I. C. C. 13,293. The changes as of November 2, 1922 and March 20, 1924 were simply for the purpose of removing certain fourth section departures that had been found to exist in the adjustments. The last set of figures represents the present rates and in connection with the present rates I want to ask attention to the fact that as to Cedar Rapids, Des Moines, Marshalltown and St. Paul that the revenue percents are substantially the same as those shown in connection with the March 1, 1917 rates; that is to say the present rates to the points that I have just mentioned were determined on the basis of using for lines south of East St. Louis 18 cents, and for lines north of East St. Louis the proportions set opposite the March 1, 1917 rates and divisions. Departures in that basis occurred at two or three points. Hannibal for example or rather opposite Hannibal for example we show for lines south 18 cents, and for lines north 6½ cents; percents, south 73.5, north 26.5, whereas in connection with the present divisions we show percents, south 70.5, and north 29.5 (Tr. 5391).

That change in percent is the result of Ex Parte 57, in which the lines north of East St. Louis, Cairo-Gale-Thebes were permitted to increase their lumber rates from those crossings 1 cent per 100 pounds, so that the percent shown opposite Hannibal in connection with the present rates were determined on the basis of using for the lines south 18 cents as of June 24, 1918, and for the lines north 7½ cents instead of 18 cents for lines south and 6½ cents for lines north as of May 1, 1917. The divisions opposite Dubuque and Davenport as of May 1, 1917 also differ somewhat from those shown opposite the present rates. That is due to the fact that on March 1, 1917 the lines north of East St. Louis on Davenport and Dubuque traffic required their local rate of 8½ cents to Davenport and 10.1 to Dubuque [fol. 1035] whereas the present divisions are determined in substantially the same manner as are the divisions on lumber traffic generally from the Southwest to points beyond the Mississippi River crossings, that is to say the

divisions are predicated upon 16 cents for lines south of Thebes and 11½ cents for lines north, which is equivalent in percent to 58.2 south and 41.8 north. The arbitrary of 11.5 for lines north of Thebes divided via East St. Louis by allowing Thebes to East St. Louis 3 cents or 26.1 percent, and north of East St. Louis 8½ cents or 73.9 percent; to Dubuque the present divisions were determined by using for lines south of Thebes as of June 24, 1918 16 cents per 100 pounds, and for lines north 13.1 cents per 100 pounds, which is equivalent to 55 percent south of Thebes and 45 percent north (Tr. 5392-5393).

The arbitrary of 13.1 cents for lines north of Thebes subdivided Thebes to East St. Louis 3 cents or 22.9 percent, and from East St. Louis to destination 10.1 cents, or 77.1 percent. I might mention in passing that we have had no dispute whatever since May 1, 1917 with our northern connections in the connection with the division of rates on forest products as changes have been made in the total through rates from the blanket territory. The Southwestern and the Western Trunk Lines agreed to use percents determined by using the June 1924 factors in arriving at the divisions of the changes that have been made since May 1, 1917. Roughly speaking the blanket territory embraces, that is roughly speaking, the Southwestern Blanket territory embraces that part of the United States which lies south of the Arkansas River and west of the Mississippi River to and including the Gulf of Mexico. It would include everything south of the Arkansas River (Tr. 5393). [fol. 1036] The divisions as shown in Exhibit A-183 are also being applied to the destination territory from the intermediate territory so far as the Western Trunk Lines are concerned. The Western Trunk Lines accept the same earnings north of the gateways on intermediate traffic as they do from the traffic from the blanket territory itself. The Thebes divisions shown are those which were fixed by the Commission in the report to which I have referred. On sheet 3 under the November 2, 1922 block to Winona, Minnesota, the mileage south should read 697 instead of 465. The percents have been based on 697 miles (Tr. 5394).

(The statement described by the witness was thereupon received in evidence as Exhibit A-183.)

[fol. 1037] A statement thereafter described by the witness was thereupon offered in evidence as Exhibit No. A-184 (Tr. 5394).

(The statement referred to was thereupon received in evidence as Exhibit A-184.)

[fol. 1038] The Witness: This exhibit is a statement of rates and divisions on lumber and other forest products from representative shipping points in the Southwest to representative destinations in Illinois Freight Association Territory and to points in northern Wisconsin via Thebes, Illinois, thence East St. Louis, Illinois. The basis for the through rates from Southwest to points in Illinois and to points in Wisconsin is the same as the basis employed in the determining of rates on lumber to other points east of the Mississippi River, that is a combination via Thebes as of June 24, 1918 modified by General Order 28, Ex Parte 74, and ICC docket No. 13,293. For a long period of time the rates determined in the manner which I have just described divided by allowing the lines south of Thebes their local or proportional rate factors, the lines north of Thebes received either the established local rate or their proportional rates: The proportional north of Thebes subdivided via East St. Louis when to Chicago and Chicago rate points by allowing the lines south 33 percent and north 65 percent. At this time I might mention that the percents that I have just named were determined on a mileage prorate from Cairo to Chicago via East St. Louis. To points in Illinois other than the Chicago district the proportion accruing to lines north of Thebes subdivided by allowing as of June 24, 1918 the lines from Thebes to East St. Louis 3 cents per 100 pounds and the lines north of Thebes 3 cents less than the local rate (Tr. 5395).

All of the divisions shown in this statement with the exception of those shown in connection with current rates on sheet 3 have been determined in the manner I have just described. In connection with the divisions as of June 24, 1918, it will be seen that the through rate from the Southwestern blanket to Chicago was 27½ cents per 100 pounds, and that rate was made up 16 cents to Thebes and 11½ [fol. 1039] cents north and is so divided via Thebes then East St. Louis gateway, that the lines to Thebes received 16

cents and for service Thebes to East St. Louis 35 per cent, or 4 cents per 100 pounds, and in connection with this latter statement I ask attention to the divisions shown in the column headed "East St. Louis" that shows that the proportion for lines south of East St. Louis was 19 cents and for lines north 8½ cents, whereas under the agreed basis the proper division would have been 20 cents for lines south and 7½ cents for lines north. The arbitrary of 19 cents that I have shown for lines south of East St. Louis was the local rate which we accepted as maximum earnings. 19 cents was our local rate (Tr. 5396).

To Peoria the through rate is shown as of June 24, 1918 to be 26½ cents, and was constructed to Thebes 16 cents south, north 10½ cents. Via Thebes and East St. Louis the total proportions for lines south was 19 cents and was made up by using the arbitrary of 16 cents from point of origin to Thebes and 3 cents for service Thebes to East St. Louis. The lines north received 7½ cents. To the Wisconsin points shown the through rate was made up on the combination via Thebes and the lines south in division of such rate received their local rates. The local north of Thebes divided to East St. Louis 3 cents and the balance accrued to the lines north of East St. Louis. That basis to the Wisconsin points is in effect today, authority for the division being Southwestern Lines Division Sheet No. 47-A, Western Trunk Lines Division Sheet No. 558-A, Illinois Freight Association Division Sheet No. 12-A. You can determine the June 24th rate to Marshfield and Rhinelander by adding together the 16 and 18 arbitraries south of Thebes and that will be 34 cents, opposite Marshfield it would also be 34 cents, opposite Rhinelander it would be 37.3 cents (Tr. 5396-5397).

[fol. 1040] The divisions shown in connection with the current rates were not determined in the same manner as were the divisions which have been shown in connection with the rates as of these dates and the June 24, 1918, March 1, 1920, August 26, 1920, April 13, 1922, July 1, 1922, August 1, 1922, or September 30, 1922. The division of the present rates are the result of an agreement which was made between the chief traffic officers of the Southwestern carriers and the chief traffic officers of the Illinois Freight Association Lines, the arrangement having become effective Octo-

ber 1, 1924, and was what might be termed a compromise agreement. The Southwestern carriers, not perhaps all of them, contended that the through rates determined on the basis of the combination via Thebes as of June 24, 1918 and modified by the general increase and reductions made since that time, to divide by allowing traffic south of Thebes 23 cents and north of Thebes to Chicago 16½ cents, out of which the lines Thebes to East St. Louis were entitled to 35 percent, or 5.8 cents and the lines north of Thebes 65 percent or 10.7 cents. Some of the Southwestern carriers in connection with their northern lines reached an agreement under which the difference in the proportion demanded by some of the Southwestern Lines and the arbitrary demanded by the northern lines was divided equally as between the lines south and north of East St. Louis (Tr. 5397-5398).

The contention of the northern lines was that the August 26, 1920 rate should divide by allowing north of East St. Louis 13½ cents while the Southwestern Lines contended that the allowance north of East St. Louis should be 12 cents. So that there was a difference of 1½ cents per 100 pounds, which was finally split by allowing south of East St. Louis 8/10 of 1 cent and lines north 7/10 of 1 cent, that is equivalent in connection with the present rate to an arbitrary of 11.4 for lines north of East St. Louis. To the other points in Illinois as shown on this exhibit the lines [fol. 1041] south of East St. Louis are allowed Chicago revenue. To the Wisconsin destinations shown the divisions as of today were determined in the same manner as were the divisions as of June 24, 1918, that is to say, they were arrived at by using as factors the local rate to and from Thebes subdividing the proportion north of Thebes via East St. Louis by allowing the Southwestern carriers 3 cents and the lines north 3 cents less than the local rate from Thebes (Tr. 5398-5399).

Referring to Exhibit A-184, there was an increase in the rate since June 24, 1918 of 12 cents to Chicago. On the basis of the lines south of East St. Louis restricting themselves to the local rates, it is true that the increase in divisions north of East St. Louis has been from 8½ cents to 11/4 cents. The percentage increase of the through rate has been substantially greater than the percentage increase

of the division north of East St. Louis. The increase to the lines south of this was based upon the June 24, 1918 rates and divisions as factors. This results from applying the agreed basis of divisions. I hav-n't figured the basis out on a rate prorate basis. The divisions have been fixed as between the lines as recently as October 24, 1924, but then the rates up to and beyond East St. Louis as of that date were not given any consideration. That would not have been at all proper because the through rate from the Southwest to those Illinois points was increased only 85 percent as was also the rates from the origin points to the river crossings, but from the river crossings to the Illinois destinations your advance was 40 percent. The through rate from the Southwest to these Illinois points was increased in the same percent as was the rate from the origin territory to Thebes and East St. Louis (Tr. 5399-5400).

The divisions shown in Exhibit A-184 apply from all Southwestern Territory groups and origins. The blanket [fol. 1042] territory mentioned in connection with Exhibit A-184 is that heretofore described by me. From the intermediate territory the northern lines accept the same earnings as they do from the blanket territory (Tr. 5401).

I have one more point that I would like to discuss but in connection with which I do not have an exhibit, and that is divisions on lumber from the Southwest to Milwaukee, Wisconsin. I think I have previously mentioned that our general basis for making rates from the Southwest to points east of the Mississippi and north of the Ohio Rivers is the June 1924 Thebes combination modified by General Order 28, Ex Parte 74 and ICC docket 13,293. There is a departure from that basis in connection with the rates to Milwaukee, Wisconsin and certain points intermediate with Milwaukee via both the East St. Louis and the Kansas City gateways. Our investigation develops that in May 1907 the rate from the blanket territory to Milwaukee was 29 cents per 100 pounds and to Chicago 26 cents per 100 pounds. One of the lines operating via Kansas City gave notice in connection with one of the Western Trunk Lines that they had concluded to make effective on lumber from the blanket territory in the Southwest to Milwaukee the same rate as to Chicago. The lines operating via Thebes and East St. Louis did not meet that competition until June

5, 1909, and at that time an agreement was reached to divide the rate by allowing the lines south of East St. Louis 19 cents per 100 pounds and the lines north of East St. Louis agreed to accept 7 cents per 100 pounds. In other words that while the Chicago rate had been extended to Milwaukee resulting in a reduction of 3 cents per 100 pounds, the Southwestern lines were only required to shrink their local rate ½ cent per 100 pounds. In other words we agreed to take on Milwaukee traffic 19 cents as compared with 19½ cents on Chicago traffic (Tr. 5401-2).

[fol. 1043] These divisions that I have just mentioned of 19 cents for lines south and 7 cents for lines north will be found in C. & A. Division Sheet No. 978-A effective June 5, 1909. Subsequently the Northern lines gave notice that they could not continue to handle the traffic from East St. Louis to Chicago on the basis of accepting 7 cents north of East St. Louis and one of the Southwestern Lines operating through the East St. Louis gateway agreed to increase that proportion from 7 cents to 8½ cents per 100 pounds. The Cotton Belt however concluded and did retire from participating in the rates to Milwaukee via East St. Louis because we did not consider we could afford to haul lumber traffic from Thebes to East St. Louis for 1½ cents per 100 pounds, so then the through rate while it was continued was made applicable via Thebes, Illinois only (Tr. 5402-3).

The present division sheet, Southwestern Lines Division Sheet No. 27-A, Illinois Freight Association Division Sheet No. 12-A, provides an allowance of 13 cents per 100 pounds for the lines north of East St. Louis, but provision is made in the sheet that that arbitrary will not apply on lumber traffic moving from points on or via St. L. S. W. Railway system lines. As nearly as I can figure the arbitrary of 13 cents was based on 17½ cents for lines south and 8½ cents for lines north of East St. Louis in connection with the 26 cent rate that was established June 5, 1909, except that applying 32.7 per cent to the existing rate of 29½ cents yields the lines north of East St. Louis 12.9 cents per 100 pounds. That basis of divisions was based upon using 16 cents as of June 24, 1918 from the Southwestern blanket territory to Thebes and a proportional rate of 11½ cents Thebes to Milwaukee. The arbitraries of 16 cents to Thebes and 11½ cents north are converted into percents which yielded south 58.2 or 23 cents in connection with the present

rate of 39½ cents and 16½ cents to the lines north, which [fol. 1044] we agreed to subdivide by allowing north of Chicago to Milwaukee 25 percent, subdividing the balance on the agreed Thebes-Chicago percent, via East St. Louis, that is Thebes to East St. Louis 35 percent, north 65 percent, and that is, or rather I should say the basis the Cotton Belt currently operates is in my opinion the proper basis of divisions to allow all lines north of East St. Louis. I don't know of any particular instance at this time where there is a difference between these proportions we allow and the proportions allowed by other Southwestern lines except as to lumber going to Milwaukee (Tr. 5403-5404).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-185 (Tr. 5404).

(The statement referred to was thereupon received as Exhibit A-185.)

[fol. 1045] The Witness: This exhibit, Mr. Examiner, as shown is simply a reproduction of exhibit No. 5 that was filed in I. C. C. docket No. 5394, reported in 33 I. C. C. 33 and the only object of bringing it into play here was because in my exhibit- No. A-183 and No. A-184 I used certain mileages from the Southwestern Territory to St. Louis and East St. Louis, and I don't know of any other place except this I. C. C. Docket 5394 where we could secure a general average distance from the Southwestern blanket territory as a whole to both the St. Louis and East St. Louis gateways. There is the average weighted haul as of the date of the statement. That was in 1915 and my own guess is at the present time the average distance would be somewhat greater than shown on this exhibit because it is admitted I think that the center of production of our lumber is constantly moving south. The distance to St. Louis would be greater than as shown in my opinion. That would be true also as to East St. Louis (Tr. 5404-5405).

S. G. Reed was thereupon called as a witness and testified as follows:

Direct examination:

My residence is Houston, Texas. I am assistant traffic manager, Southern Pacific Lines in charge of rates, tariffs

and provisions, which position I have held for the past two years, prior to which time I was connected with the traffic department and rate department of the Southern Pacific Lines for about thirty years in various capacities, assistant general freight agent, and assistant to the traffic manager (Tr. 5405-5406).

Attorney Muckley here stated that the precipitation given by Witness Cecil included all rain and snow and any other air condensation, that he didn't know whether it included dew or frost but it included rain and snow (Tr. 5406).

[fol. 1046] This case involves divisions applying on traffic interchanged between the Western Trunk Lines and the Southwestern Lines via Kansas City, St. Louis, Cairo, Gale and Thebes. In addition to such elements as density of traffic, density of population per mile of road, cost of handling traffic, revenue per ton per mile, average haul, and the financial needs of the carriers, all of which must be considered in arriving at the proper basis for such divisions, there are two other elements, namely, the level of rates applying to and from gateways through which the traffic moves and the rates applying generally within the states comprising the two groups. The former has already been fully covered by witnesses Dana and Sickel, and it has been shown that the rates to and from the gateways from and to points in Western Trunk Line Territory are very much lower, mile for mile, than rates applying to and from the gateways from and to points in Southwestern Territory. I have made a comparison of the rates applying within each of the states involved (Tr. 5406-5407).

By way of preface and explanation it should be stated that it is impossible to make a comparison of these rates that will depict with absolute mathematical exactness the relation of one state with every other state and with one another and with groups for several reasons, first, the states vary in size; second, the scales vary in length; third, the blocks vary in length; fourth, the progression in rates vary; fifth, the percentage relation of the classes vary; sixth, two scales of rates prevail in one of the states, one applicable on interstate and one on intrastate traffic; seventh, in one state there are several scales applicable within the state, each applying in certain parts of the state. It is possible, however, to depict the rate levels prevailing in each state

by subjecting its scales to tests recognized as proper and applied by all rate tribunals and statisticians, and by ap- [fol. 1047] plying these tests, determine the percentage relation of each result thereby obtained, in one state or group of states, with similar results in another state or group of states. If the test is applied to a reasonably large number of classes of rates or average of rates and the percentage relation is similar, or comparable figures, is uniformly the same, then the results must be accepted as representative. This study has been made with proper consideration of all variations prevailing in the respective states and embraces a sufficient number of comparable rates of various kinds to be representative of the respective rate levels of the two territories. The study has not been confined to the class rates, but was made of the commodity rates as well. It deals with single line rates, and where there are both interstate and intrastate scales as in Wisconsin, both are used.

I now desire to offer Exhibit No. A-186 (Tr. 5407-5408).

(The statement thereafter described by the witness was received in evidence as Exhibit A-186.)

[fol. 1048] This exhibit consists of 18 pages and is a comparison of the class rates applicable within the various states involved in this proceeding. Pages 1 and 2 cover interstate class rates and show the average of each of the class rates for all distances in each scale. By referring to interstate class rates in Texas, I mean that they are applicable on interstate traffic as well as intrastate traffic (Tr. 5408).

Pages 1 and 2 of Exhibit A-186 also show average of the ten classes within the respective states for all distances within each state—within each scale and the average class rates as well as the average of the ten class rates within the group of states comprising of the Southwestern Lines involved in this case. Pages 3 and 4 of this exhibit are similar averages rates, and comparisons as to interstate traffic. Page 5 shows the average rate within the various states for stated distances, that is for blocks of 50 miles up to 500 miles, together with the average rate for the Southwestern Lines group as a whole. Page 6 is a similar showing to that made on page 5 for the Western Trunk Line

states and group. Pages 7 to 17 inclusive show the average of each rate and of all the class rates within the various states for stated distances used from which the average rates shown on pages 5 and 6 were obtained. Page 18 contains the tariff authority for the rates used in this exhibit. Because of the fact that a part of Missouri is in Southwestern Territory and part in Western Trunk Line Territory, I have shown on pages 1, 2, 3 and 4 of exhibit No. A1-186 the average of the Western Trunk Lines with the Southwestern Lines in four ways; one including south Missouri in the Southwestern Lines, one including north Missouri in the Western Trunk Lines, one omitting north Missouri from the Western Trunk Lines and one omitting [fol. 1049] south Missouri from the Southwestern Lines (Tr. 5408-5409).

On page 2 under the caption "relationship" will be noted certain percentage relationships on interstate traffic based on interstate scales of the Southwestern and the Western Trunk Lines; also, of Texas and Louisiana taken together with the Western Trunk Lines. On page 4 will be noted similar percentage relationships shown on intrastate scales. Inasmuch as the percentage relation of the rates for 50 mile blocks up to 500 miles, shown on pages 5 and 6 of exhibit No. A-186 have not been indicated in that exhibit, I have prepared another exhibit which I desire to offer as exhibit No. A-187 (Tr. 5409-5410).

(The statement referred to and thereafter further described by the witness was received in evidence as Exhibit A-187.)

[fol. 1050] Exhibit A-186 shows scales in which reductions are now proposed in Southwestern territory. I don't know whether they are reductions or advances, what they will be, but we think they are reductions. The scales shown on that page in Western Trunk Line Territory are the same scales that it is now proposed to advance in connection with the hearing in Ex Parte 87. The scale shown on page 6 as the Illinois scale is that prescribed by the Interstate Commerce Commission in 60 I. C. C. (Tr. 5410-5411).

Exhibit A-187 consists of one page which shows the percentage relation of the Southwestern Lines states to the

Western Trunk Lines states individually and by groups, based upon the average of the class rates in blocks by multiples of 50 miles up to 500 miles. As previously stated these are based upon the average of the rates in each of the states shown on pages 5 and 6 of Exhibit No. A-186. On the same exhibit I have shown the percentage relationship of the Southwestern states to the Western Trunk Lines states individually and by groups based upon the average of the first class rate for all distances in the blocks shown on pages 7 to 17 of exhibit No. A-186 (Tr. 5411).

The comments I will make will relate to Exhibit No. A-186. The comparisons on pages 1, 2, 3 and 4 of exhibit No. A-186 included all of the rates in each scale, regardless of length or gradation. Such a comparison by itself might not be considered as fully representative. I have, therefore, thought it proper to prepare a showing of the average of the ten class scales, single line, both state and interstate, for stated distances for each of the states involved in this case. This will be found on page 5 of exhibit No. A-186 for the Southwestern States and on page 6 for the Western Trunk Line States. Page 5 also shows the average rate of the Southwestern Lines as a whole for these stated distances and page 6 the average [fol. 1051] rate for the Western Trunk Lines for these stated distances. It will be observed that Michigan is not included in these block comparisons. The reason for this is that only the northern Peninsula is involved in this case and the maximum distance traffic could move in the northern Peninsula is approximately 175 miles east and west and 75 miles north and south, while I have used blocks up to 500 miles for comparison in other states. It will be observed that the same number of states is used in each territory in this comparison of rates for stated distances. It was thought unnecessary to show the average rate for stated distances beyond 500 miles as in only one case—Arkansas—does the scale extend beyond this distance, while in several other states it does not extend beyond 350 miles. Furthermore, this study is primarily to show the relationship and it is thought that this would be fully reflected by using when possible ten comparable blocks in each state (Tr. 5412-5413).

It will be observed that in the Southwestern states group, on page 5, there are no rates shown as to Oklahoma for 500 miles; this because as the scale reaches maximum at 450 miles. Also, as to Southern Missouri there are none shown for 400—450 or 500 miles. This for the reason that the scale does not extend beyond 350 miles. This makes a total rates omitted of 4 in the Southwestern Lines—2 500, 1 450, and 1 400. Likewise for the Western Trunk Lines there are no rates shown in 7 blocks, 2 in Wisconsin, 2 in Minnesota and 3 in northern Missouri, making a total of 7; 3 500; 3 450, and 1 400. While it was felt that these would offset one another one would not change the relations of the respective groups, or in fact, the average of the rates themselves, materially in order to demonstrate this, I have prepared another exhibit, which I now desire to offer as exhibit No. A-188, consisting of two pages (Tr. 5413).

(The statement described by the witness was thereupon received in evidence as Exhibit A-188.)

[fol. 1052] On Exhibit A-186 there are shown two scales in Missouri, one applicable in north Missouri and one in south Missouri. The line of the Missouri Pacific between St. Louis and Kansas City is the dividing line.

Mr. Roberts: The Commission recently prescribed a higher scale in southern Missouri.

Exam. Disque: Illinois has higher rates than northern Missouri; take on exhibit No. A-187, what does the first half of it, take Oklahoma versus Wisconsin now?

The Witness: It means that the average of rates taken by blocks of 50 up to 500 miles are as many as are shown in that comparison compared with the rates for corresponding distances in Wisconsin and taking the average of those rates that the Oklahoma rates are 178 percent of the intrastate scale applicable in Wisconsin and 153 percent of the interstate scale. That is classes one, two and three. The lower half is confined to the first class. The basic figures from which these figures were obtained are shown on pages 5 and 6 of Exhibit A-186 (Tr. 5413-5414).

This shows on page 1 the percentage relationship of each of the Southwestern States with each of the Western Trunk Line States for each of the 50 mile blocks up to 350 miles.

It also shows on page 2 the percentage relationship of the Southwestern States group to the Western Trunk Lines states group for each of these blocks up to 350 miles as to both interstate and intrastate traffic. I have prepared another exhibit showing the rate relationships in still another way in the respective states and territories which I now desire to offer as exhibit No. A-189 consisting of 14 pages (Tr. 5415).

(The statement referred to and thereafter described by the witness was thereupon received in evidenc as Exhibit A-189.)

[fol. 1053] Wisconsin is the only state in which there is a different scale interstate and intrastate.

Exam. Disque: You mean that is a chance for the Western Trunk Lines to get some more money, you mean that the Wisconsin rates are lower intrastate than interstate?

Mr. Muckley: Much lower (Tr. 5415-5416).

The Witness, continuing: Because of the varying gradations as to mileage in the scales in the various states in Western Trunk Line and Southwestern Line Territories and in order to avoid criticism that we were using more rates in one territory to arrive at average rate for that territory than in another, I have in this exhibit used rates up to 350 miles only and have used the same number of blocks, thereby using the same number of rates in each state in order to obtain the averages. In other words, I have used 410 rates in each state in obtaining the average rate for that state. The first page of this exhibit shows the percentage relation of the averages of 410 rates for similar distances and for the same number of classes in various ways. Pages 2 and 2-A contain the averages of the class rates upon which these percentages on page 1 are based. Pages 3 to 13 contain the scales themselves for each distance and class used, and at the bottom of each page appears the average of the rates thereon. In every case 410 rates have been used. The exhibit also shows the average and shows rates for the same distance in each case for the same number of rates. Page 14 contains the tariff authorities (Tr. 5416).

Having in mind the opinion held by some that the class rates in the Southwest do not move the traffic as freely as

In other sections it is surprising and significant to find so many commodities,—commodity rates in the Western Trunk Lines, notwithstanding the much lower level of their class rates as compared with the Southwest. It may be true that there may be more commodity scales in the Southwest than in the Western Trunk Line Territory, but [fol. 1054] there are in the Western Trunk Line specific commodity rates as numerous as in the Southwest on many important and heavy moving commodities, which are applicable in widely separated sections. I now desire to submit an exhibit reflecting a study of the representative current commodity rate levels within the respective states involved in this proceeding, exhibit No. A-190, which consists of 37 pages (Tr. 5416-5417).

(The statement referred to and thereafter described by the witness was received in evidence as Exhibit A-190.)

[fol. 1055] As there are not in all of the Southwestern or Western Trunk Lines states scales applicable on specific commodities within the states, it was not possible to make in the same way comparison between the respective commodity levels in the two territories as has been made with respect to the class rates and which is reflected in the previous exhibits. Therefore, in order to make a study of the situation that would be comprehensive and would reflect a true state of facts, it was necessary to make a very complete study of the specific commodity rates applicable within each state and based thereon, to construct a scale which would represent the level of rates under which such commodities move in each state (Tr. 5417-5418).

The next step was to select commodities common to all the states involved in this case, not only those that move freely and in substantial volume, but in all parts of each state. Furthermore, to be fairly representative these commodities should be such as move under similar conditions. That is, to avoid selecting a commodity such as lumber which, while it moves freely and in substantial volume in all parts of each state, is not produced in each state. For instance in Texas, Louisiana and Arkansas, it is produced and generally moves direct from mills to retailer,—and there is very little reshipment through jobbers. The same is true as to Wisconsin and Michigan, but in all of the

other states the movement is from other states and there is greater distribution by wholesalers. The next step was to select three important but widely separated points in each state as points of origin and locate points of destination in relation thereto approximating each of the 50 mile blocks for the maximum distance such commodity could move within each state. Whenever there was a scale applicable within the state on such commodity, and there was no lower specific commodity rate, scale or specific, then the class rate applicable on the commodity for the particular [fol. 1056] distance was used (Tr. 5418).

The same plan was followed uniformly in both of the Southwestern Lines states and in Western Trunk Lines states. For example, turning to the Louisiana exhibit, page 20, it will be noted that the three points of origin selected are New Orleans in the southeast corner of the state, Shreveport in the northwest corner, and Lake Charles in the southwest corner. Each of these points is an important distributing center. *Each of these points is an important distributing center.* There were selected points of destination, the same distance approximately from each of the points of origin for approximately 50, 100, 150, 200, 250, 300 and 350 miles. The same plan was followed in the Western Trunk Lines group. We have selected for instance, in Illinois on page 14 as points of origin, East St. Louis, Freeport and Cairo, and destinations for each block approximating 50 miles up to 250 miles. Having obtained the rates applicable from each point of origin to each destination, for each distance approximating the 50 mile blocks, an average for each of these rates for each of these blocks was obtained and used as representative of the rate prevailing within each state for that particular distance. While in some cases the same rates were applicable on these commodities moving between the points selected and also generally the same on both interstate and intrastate traffic because of some differences we made a separate study and comparison of the interstate scales and of the intrastate scales (Tr. 5419).

The result of the study and comparison are referred to in our exhibit No. A-190, which has been previously offered in evidence, and I will now explain this exhibit in more de-

tail. The first page is a statement of the average rates on the 11 selected commodities common to Western Trunk Lines and to Southwestern Lines territories and applicable [fol. 1057] to intrastate traffic and the percentage relationship of the average rates on these commodities in Western Trunk Line Territory with corresponding average rates on the same commodities in Southwestern Lines Territory. Page 2 is a similar statement with respect to interstate traffic. Page- 3 and 4 show the average of these commodities in the respective Western Trunk Lines and Southwestern Lines groups, as well as the average on all of these commodities within those states for state and interstate application. Pages 5 and 6 are recapitulations of the average rates on these commodities for intrastate and interstate application for stated distances, as well as the average of such rates for these distances by groups of these states. The balance of the exhibit, pages 7 to 35, inclusive, contain a statement showing the average of rates on these commodities for stated distances within the respective states shown, applicable on state and interstate traffic, and are the details upon which figures shown in the preceeding pages were based (Tr. 5419-5420).

Pages 36 and 37 set out the tariff references used in this exhibit, and the reference marks on these pages appear on pages 11 to 21, inclusive, and 26 to 35, inclusive, in parentheses, opposite the points of origin used, except when all of the rates are in one tariff this reference mark appears opposite the state. As previously stated, the percentage relationships of the average of the rates on these 11 selected commodities on intrastate and interstate traffic, separately in the Western Trunk Lines and in the Southwestern Lines Territories, are shown on pages 1 and 2 of exhibit No. A-190, and similar detail with respect to the relationships of the class rates is shown on pages 2 and 4, Exhibit No. A-186. The average rate levels on classes and commodities within the various states are further depicted in the form of graphs, which we now offer in evidence (Tr. 5420-5421).

[fol. 1058] In Exhibit A-190 the relationship is shown using rates in 50 mile blocks up to 250 miles and also for all the distances. The traffic could not move beyond 250 miles in some states so the 250 mile figures show compari-

son of rates for comparable distances. In getting up the data for this exhibit we used the scale, if it was a scale. If there was a specific rate lower than the scale we used the specific rate. If there was neither a scale or a commodity rate, we used the class rate and that applied uniformly in both Southwestern and Western Trunk Line states (Tr. 5421-5422).

In picking these commodities and points of origin I gave thought as to whether or not traffic moved on those rates. I have no figures as to the amount of soft coal moving from Milwaukee to any place. I presume that soft coal moves from Milwaukee into Wisconsin.

Exam. Disque: Oh, yes, the docks are full of it.
The Witness: I adopt the Examiner's statement.

There were rates on soft coal from other points than St. Paul. It just so happens that we took St. Paul as the point from which the distribution of the commodities would be probably larger and more representative levels under which the greatest portion of the traffic moved in the state (Tr. 5422).

We picked the largest shipping points and the commodities which in our opinion moved freely within the various states and which are common to both sections of the state. I don't know why these larger shipping points which we chose would have the special commodities in there if they did not ship them. We would have a right to assume that the rates moved the traffic (Tr. 5423).

Probably the commodities don't move because the rates are too high. It is the uniform situation that if the commodities don't move the rates are naturally higher than if [fol. 1059] there is a movement. That would make the showing to the advantage of the Western Trunk Lines. As a rule paper rates are higher than actual moving rates.

The lines in these graphs depict the average rate levels on classes and commodities within the states shown, for state and interstate application, and are based upon and conform with the rate levels shown in the preceeding exhibits. The first of these graphs, Exhibit No. A-191 depicts the average rate levels within the various states shown. This graph as well as the two other graphs are explained fully by the legend appearing in the lower right hand corner of each graph (Tr. 5424).

(The graph described by the witness was thereupon received in evidence as Exhibit A-191.)

The second graph exhibit No. A-192 depicts the average of the rate levels by groups of states, that is, Southwestern Lines versus Western Trunk Lines. This also shows the percentage relation of the average of the rate levels in these two groups of states (Tr. 5424-5425).

(The graph described by the witness was thereupon received in evidence as Exhibit A-192.)

The third graph, Exhibit No. A-193 depicts the average rate levels for stated distances within the groups of states forming the Western Trunk Lines and the Southwestern Lines territories applicable to state and interstate traffic separately. It also shows the percentage of the average of the rates in the Western Trunk Lines as a whole as to classes and commodities separately, state and interstate (Tr. 5425).

(The graph described by the witness was thereupon received in evidence as Exhibit A-193.)

[fol. 1060] The percentage relation of the lines in this graph as representing the different classes of rates used is indicated at the bottom of the graph and it shows that the percentage, Southwestern Lines to Western Trunk Lines in the case of Interstate class levels, ranges from 156 per cent to 191 percent, while on the intrastate commodity rate levels, the range in percentage is 128 percent to 171 percent. The range is shown in blocks of 50 miles (Tr. 5425).

I do not wish to burden the record with repetition of facts shown in exhibits Nos. A-191, A-192 and A-193 and will merely call attention to the fact that the percentages shown in graph exhibit No. A-192 are lower as to the class rates than those of: First, the average of the rates of all 50 mile blocks up to 500 miles shown in exhibit No. A-197; second, the average of the first class rate for all distances up to 350 miles, shown in exhibit No. A-187; third, the average of each 50 mile block up to 350 miles, with the exception of the first block of 50 miles, as shown on page 1 of exhibit No. A-188; fourth, the average of all rates in each state up to 350 miles, as shown in exhibit No. A-189. I mention these facts to show that the figures contained in

the graph are very conservative. It would be fair to assume from these facts that the percentage relation of the rate levels in the Southwestern states is actually higher than we have shown in our graphs, exhibits Nos. A-191, A-192 and A-193; and most assuredly the above facts support the latter figures as a minimum. We have previously shown that the percentage relations on page 1 of exhibit No. A-186 are lower than the percentage relations obtained by other tests as to the Western Trunk Lines and Southwestern Lines as a whole, having in mind the evidence in [fol. 1061] this record as to the very large percentage of the traffic involved in this case which has origin or destination in Iowa and Illinois, or passage through Illinois and Iowa (Tr. 5426).

I made a separate comparison of the rate levels in these two states with each of the Southwestern states and with groups of the Southwestern states and also with the Southwestern states as a whole. These are reflected in exhibit No. A-194, which I now desire to present, and call attention to the fact that the percentage relation is greater as to Illinois and Iowa taken together compared with the Southwestern states and with each group of Southwestern states and with the Southwestern states as a whole, than is relationship with the Western Trunk Lines as a whole with each of these states or groups of states. In this comparison the rate levels used are arrived at by taking all of the rates in every scale in each state and I have shown previously that the percentage relation is uniformly lower than in this test than by the use of any other test (Tr. 5427).

(The statement described by the witness was thereupon received in evidence as Exhibit A-194.)

[fol. 1062] The next exhibit is a comparison of class rate scales fixed by the Commission in Western Trunk Line Territory and in the Southwest.

The statement described by the witness was thereupon offered in evidence as Exhibit A-195 (Tr. 5427).

(The statement referred to was thereupon received in [fol. 1063] evidence as Exhibit A-195.)

The Witness: The basic scale used in the Southwest is the Memphis-Southwestern Scale, 55 ICC 515, and applies

between points in Southern Missouri, Arkansas and Louisiana west of the Mississippi River. In the Fargo Case 98 ICC 691, decided June 1925 the Commission fixed a scale of class rates to apply from Twin Cities and Duluth, Minnesota and related points in Minnesota and Wisconsin taking the same rates, to Fargo, Valley City and Jamestown, North Dakota and Moorehead, Minnesota; and from Fargo, Moorehead, St. Paul, Minneapolis, Duluth, and certain other Minnesota points to points in Minnesota 150 miles and less from Fargo. That scale, as noted in this exhibit is shown in line "A" for 50 mile blocks, from 50 miles to 500 miles, inclusive. In the Watertown Case, 101 ICC 441, decided in July 1925, the Commission fixed a scale of class rates from Watertown, South Dakota to points in Minnesota. In that case the Commission found that the class rates from Sioux Falls, Sioux City and certain Minnesota points to other Minnesota points were less than reasonable maximum rates and that for the future reasonable maximum rates from and to said points would be the Fargo scale, previously mentioned, less 12 percent for hauls on and east of the line of the C. St. P. M. & O. from Sioux City through Worthington and Mankato. In other words, the Commission said that the territory involved in that case east of the Omaha Railroad should take rates 12 percent less than the Fargo scale. This scale is shown opposite Line "B" in this exhibit (Tr. 5427-5428).

The scale shown opposite line "C" in this exhibit represents the present rate levels in Illinois and was practically fixed by the Commission in its report in 60 ICC 92, decided in 1921. We therefore have three class scales in Western Trunk Line Territory which have the approval of the Com- [fol. 1064] mission, and one class scale in Southwestern Territory applying in three states. The third page of this exhibit shows the average rates under these scales for each 50 mile block and for all classes. The last page also shows the percentage of the Memphis scale to each of the three scales fixed by the Commission in Western Trunk Line Territory. The Memphis-Southwestern scale as shown on this exhibit is 137 percent of the Fargo Scale. The Memphis scale is 155 percent of a scale 12 percent under the Fargo scale, which the Commission found proper in the Watertown case to apply in the territory immediately east of the

Omaha Railroad. The most important comparison in this exhibit is between the Memphis-Southwestern scale and the Illinois scale, because as previously shown most of the traffic interchanged involved in this proceeding moves from, to or through the state of Illinois. It will be noted that the Memphis scale is 196 percent of the Illinois scale. The last block of figures on page 3 of this exhibit also shows relation of the Memphis scale to each of the three Western Trunk Line scales for each class. For example, the average of the first class rates in 50 mile blocks in the Memphis scale is 172 percent of the average of the first class rates for 50 mile blocks under the Illinois scales (Tr. 5428-5429).

If we take the first five classes we find that the Memphis scale ranges from 122 percent to 163 percent of the Fargo scale. The first five classes of the Memphis scale range from 137 percent to 185 percent of the Watertown scale, while comparison of the first five classes of the Memphis scale and the Illinois scales show that the percentages range from 172 percent for first and second classes, to 236 percent for the fifth class. Questions by Mr. Towner of previous witnesses as well as myself has indicated that it will probably be the Western Trunk Lines contention that class rates in the Western Trunk Line Territory are depressed. A com-
[fol. 1065] parison of the percentage relations obtained by using the Commission made rates with those obtained by using the various class rate levels within the states as shown by previous exhibits indicates at least as far as Illinois is concerned that the comparisons made on the previous exhibits are fair (Tr. 5429-30).

Making some comparisons of the percentages of the first five classes as shown by Exhibit A-189:

The average of the first five classes of the Southwestern States including southern Missouri is 63.77, excluding south Missouri it is 63.50. The average of Western Trunk Line first five classes, excluding Wisconsin interstate is 37.52, excluding Wisconsin state it is 38.49. When I exclude Wisconsin state rates I include the interstate. The percentage relationship for the Southwestern Lines as a whole including Missouri with the average of all of the Western Trunk Lines, using the Wisconsin state scale, is 177 percent. That is the first five classes only as shown on Exhibit A-189 (Tr. 5430-5431).

The average, excluding south Missouri from the Southwestern Lines and with the Western Trunk Lines intrastate scale is 176.3 percent. Now the percentage of the Southwestern states including South Missouri with the average of the Western Trunk Lines states based on the interstate scale is 171.3 percent, while excluding south Missouri from the Southwestern Lines and comparing that with the Western Trunk Lines, and using the interstate scale the percentage is 170.6 percent. My last percentages all relate to the relation of the first five classes only.

I haven't the exact date that Docket 9,702 was decided. December 5, 1919. The Commission hasn't prescribed any scales in Southwestern territory since 1919, except in Mis- [fol. 1066] souri where they have recently prescribed one. But that was not used in these exhibits and from a cursory examination of it it is higher than the scale that was used in this comparison. I am not familiar with any scale prescribed by the Commission recently on cotton seed products in Southwestern and Western Trunk Line territory. I know they have prescribed such a scale. I am not sufficiently familiar with it to answer any questions about it.

Mr. Larimore: The cotton seed scale applies all over the United States.

Mr. Towner: So much the better. Is that right, Mr. Reed?

A. Not all over the United States.

The Witness, continuing: It applies quite a distance. I didn't look up either that scale or the scale on live poultry referred to (Tr. 5431-5432).

Exam. Disque: Now, to determine the ultimate results of these two Western Trunk Lines different levels of rates, you can refer to your operating ratios and your return on your investments to see whether or not this whole level in Western Trunk Line Territory yields 3, 4, or 5 percent on your investments, or whether this high level in the Southwest earns that.

Mr. Towner: I suppose Mr. Reed would reject with scorn the inference that possibly the local rates in the Southwest were too high, so I didn't ask him that.

Mr. Roberts: The Examiner remembers the difference in density between the two territories (Tr. 5433).

W. J. SAUER was thereupon called as a witness and testified as follows:

Direct examination:

I am auditor of freight accounts for the Southern Pacific Lines in Texas.

(Attorney Towner here conceded the witness's qualifications.)

I have analyzed certain exhibits that have been put in this record (Tr. 5433-5434).

[fol. 1067] I have had Western Trunk Line Exhibit No. A-60 for June 1924 analyzed and have prepared a statement showing the relation of the revenue of the Southwestern Lines under present divisions to the revenue which would accrue to them under a mileage pro-rate, and offer same as exhibit No. A-196 (Tr. 5434).

(The statement described by the witness was thereupon received in evidence as Exhibit A-196.)

I have had another statement prepared based on Southwestern Lines Exhibits No. A-116 to A-120, inclusive, for October 1924, showing the relation of the revenue of the Southwestern Lines under present divisions to the revenue which would accrue to them under a mileage pro-rate, which I offer as Exhibit No. A-197.

The statement described by the witness was thereupon offered in evidence as Exhibit A-197 (Tr. 5434).

(The statement referred to was thereupon received in evidence as Exhibit A-197.)

The Witness: Exhibit No. A-197. Now, my next exhibit is a consolidated statement based upon Western Trunk Lines Exhibit No. A-60 and Southwestern Lines Exhibit No. A-116 to A-120, inclusive, showing for the months of June and October 1924 the relation of the revenue of the Southwestern Lines under present divisions to the revenue which would accrue to them under a mileage pro-rate, which is offered as Exhibit No. A-198 (Tr. 5434-5).

(The statement referred to was thereupon received in evidence as Exhibit A-198.)

[fol. 1068] The basis used in compiling Western Trunk Lines exhibit No. A-160 and Southwestern Lines Exhibits Nos. A-116 to A-120 inclusive, on special commodities, such as live stock and oil, was not identical, that is the western trunk lines apparently made a complete separation of these commodities, while the Southwestern Lines only separated these commodities when specific divisions, no divisions or disputed divisions applied. When specific divisions, no divisions or disputed divisions were not the basis for settlement but merchandise percentages were used, these commodities would appear in southwestern Lines exhibit under "other carloads". The exhibits that I have prepared show tons one mile for the Western Trunk Lines, Southwestern Lines, the percentage of the total tons one mile of the Western Trunk Lines and the Southwestern Lines, the revenue accruing to the Western Trunk Lines and the Southwestern Lines, the percentage of the revenue that the Western Trunk Lines received and the percentage of the revenue that the Southwestern Lines received by dividing the percentage of the tons one mile of the Southwestern Lines into the percentage of revenue of the Southwestern Lines (Tr. 5435-436).

I have ascertained and shown the relation of the revenue of the Southwestern Lines under present divisions to the revenue which would accrue to them under a mileage prorate. The statements are prepared by Southwestern Lines states, also gateways, between the Southwestern Lines and the Western Trunk Lines. Western Trunk Lines exhibit No. A-60 show the separation between northeastern Texas and the remainder of Texas common point territory. This separation was not made in Southwestern Lines exhibit No. A-116 to A-120. However, Texas common point terri-
[fol. 1069] tory shown in Western Trunk Lines exhibit No. A-60 is apparently the same as shown in Southwestern Lines exhibits. Nos. A-116 to A-120, inclusive, covering Texas common point territory. The ratio of 112 on consolidated exhibit No. A-198 was arrived at in this manner: The 54.26 percent shown opposite Southwestern Lines or tons per mile is their percentage of the total tons per mile. That represents the service. The 61 percent opposite the Southwestern Lines percentage of the revenue accruing to the Southwestern Lines and the Western Trunk Lines. By

dividing the 54.26 into the 61 percent you arrive at 112.4 percent, that means that the Southwestern Lines receive 12 percent of a straight mileage pro-rate on all traffic. That is for performing 54.26 percent of the service via all gateways that receive 26 percent of the revenue (Tr. 5436-7).

B. H. STANAGE was thereupon called as a witness and testified as follows:

Direct examination:

I am Assistant Freight Traffic Manager of the St. Louis, San Francisco Railway, headquarters, St. Louis, Missouri. I have been connected with the Frisco 31 years this coming March and in the Traffic Department since 1904.

(Attorney Towner here conceded the witness's qualifications.) (Tr. 5437.)

A volume of statements was thereupon offered in evidence as Exhibit A-199 (Tr. 5438).

(The volume of statements referred to was thereupon received in evidence as Exhibit A-199, and the statements were thereafter described by the witness.)

[fol. 1070] The Witness: I desire to offer in evidence exhibit No. A-199, consisting of 209 pages, except that pages 18 to 26 are skipped and so indicated in the body of the exhibit. In other words there are no pages numbered 18 to 26. Page 1 is a map of the Frisco. The Frisco System Lines serve the following states, and Southwestern territories: Missouri, Arkansas, Oklahoma and Texas. Mileage in each state as of December 31, 1924 as follows: Missouri 1,862.24 miles; Arkansas 603.43 miles; Oklahoma 1,506.32 miles; Texas, including the Q. A. & P. Railway 496.96 miles. The production of traffic in this territory is confined principally to the products of the farm, orchard and mines. There are a few manufacturing establishments other than oil refineries outside of those located in St. Louis, Kansas City, Missouri and Memphis, Tennessee. The line from St. Louis through Springfield to the Missouri-Kansas border in southwest Missouri, 329 miles, traverses the Ozark mountains. The products are principally fruit, ores, concen-

trates, chats, lead products, live stock and dairy products. On the line west of Joplin, Missouri to Ellsworth, Kansas, 288 miles, the products are wheat, hay, live stock and oil from the refineries at Joplin, Missouri, Wichita and Neodesha, Kansas, which moves principally to short hauls—short haul points (Tr. 5438-5439).

The production on the line from Beaumont Junction, Kansas to Vernon, Texas, 331 miles, consists of grain and mill products, alfalfa oil, and cement plaster mill is located at Southard, Oklahoma. Cotton, cotton seed and its products are produced to a limited extent in the territory, from Hobart, Oklahoma and south. On the line from Monet, Missouri through Afton, Tulsa and Oklahoma City to McBain, Texas, 532 miles, the bulk of the tonnage consists of petroleum oil and its products, hay, cotton, cotton seed and products and live stock. A cement plaster mill is [fol. 1071] located at Eldorado, Oklahoma and Acme, Texas. Packing plants at Oklahoma City. Sapulpa, Oklahoma to Denison, Texas, 198 miles, the production consists of oil, live stock and smelter. A cement plant is located at Ada, Oklahoma. There is a limited production of cotton, cotton seed and products, Denison, Texas to Menard, Texas, 325 miles, the production is principally grain, cotton, oil and live stock. Tulsa, Oklahoma to Avard, Oklahoma, 178 miles, the production is principally oil, sand and crushed rock and wheat. Monett, Missouri to Paris, Texas, 302 miles, the Ozark Mountains are traversed. This section produces fruit, potatoes, dairy products, canned goods, some hardwood and a light tonnage of cotton, cotton seed and products. There is a very small quantity of tin in the territory south of Wister, Oklahoma (Tr. 5439).

The branch from Fayetteville, Arkansas to Okmulgee, Oklahoma, 143 miles produces oil, fruit, potatoes, cotton and cotton seed. From Ardmore, Oklahoma to Hope, 222 miles, the tonnage consists of oil, lumber, live stock, hay, forests products, the latter principally on the T. O. & E., and the DeQueen & Eastern with whom the Frisco connects at Valiant, Oklahoma. There is a limited production of cotton and cotton seed products. From Springfield, Missouri north via Clinton, Kansas City, 191 miles the production is light, consisting principally of lumber, building stone, live stock and grain. From Kansas City, Missouri via Frisco, Kansas to Nichols, Missouri, 192 miles, the prin-

cipal tonnage is coal in the Pittsburg, Kansas District, hay products, and also a small quantity of wheat. The line from Springfield, Missouri to Memphis, 286 miles, traverses the Ozark Mountains, producing fruits, dairy products, canned goods and various forest products. In northeastern Arkansas section there is a limited production of forest products, corn, cotton, cotton seed and products. In the territory south of St. Louis through Cape Girardeau to Memphis, Tennessee, 305 miles, the principal tonnage is forest prod-
[fol. 1072] ucts, grain, cotton, cotton seed and products, potatoes, melons and cantaloupes. A cement mill is located at Cape Girardeau. There are also a few lime plants north of Cape Girardeau (Tr. 5440).

There is a very limited production of traffic on the numerous branch lines in southeastern Missouri and northeastern Arkansas. The production is exceptionally light on the Missouri Lines from Nash, Missouri to Willow Springs, Missouri, 160 miles, and from Mingo, Missouri to Walnut Ridge, 80 miles, consisting almost entirely of ties and lumber. The southbound traffic handled by the Frisco is principally that of the higher grade, largely manufactured goods and merchandise. The northbound traffic consists of raw or rough products, or materials such as brick, other clay products, cement, lumber, crushed stone, sand and gravel, cotton, cotton seed, cotton seed products, coal, grain, grain products, hay, live stock, fresh meat, packing house products, petroleum oils, sewer pipe, chats, zinc, ore, and concentrates, all of which moves on commodity rates. The north bound tonnage is from four to five times in excess of the southbound. The revenues accruing to the Frisco in connection with the handling of inter-territorial traffic between points in the Western Trunk Lines Territory on the one hand and points in the Southwestern Territory on the other is substantial. In my opinion it constitutes 10 per cent of our total freight revenues. Using as a basis the figures submitted by the Wabash, C. & A., C. & E. I., C. G. W., M. & St. L., C., St. P. M. & O., C., M. & St. P., C. & N. W., and the Illinois Central, covering traffic interchanged for the month of June 1924, the reduction or loss in Frisco revenue under the application of a mileage pro-rate basis would approximate $500,000.00 annually. And this would
[fol. 1073] mean a corresponding gain to the Western Trunk Line from the Frisco alone (Tr. 5440-5441).

No figures are available showing the losses for traffic interchanged with the Santa Fe, Rock Island and Burlington. My estimate is it will be about $100,000.00. Grand total, $600,000.00 loss to the Frisco. The Frisco has no way to recoup its revenue if the Commission requires the application of a mileage pro-rate which will result in a loss to the Frisco on almost *on* every shipment. The present divisions are not the result of arbitrary carrier action. They are the result of the processes of natural growth. A great many influences brought about the present bases. It is not proper to divide the existing joint rates on mileage pro-rates for a great many reasons, principal among which are the fact that the rates in the Southwest are on a substantially higher level than those in the Western Trunk Line territory. Divisions are generally based on the respective rate levels in the two territories. The divisions of joint rates accruing to the Southwestern Railroads have always been on a substantially higher level mile for mile than the divisions for the Western Trunk Lines. Traffic and transportation conditions in both districts are substantially dissimilar. The through rates are not based on mileage. The mileage pro-rate basis has never been observed in basing any of these divisions. The through rates were constructed taking into consideration the proportions to be allowed the Southwestern Lines. Especially is this true of the north bound traffic as I will cover in detail shortly (Tr. 5442).

There is no uniformity in the rate adjustments applicable to Southwestern Territory as a whole or as applied to any given commodity. Some of the rates are based on the application of the mileage scale from St. Louis, the recognized committee gateway, to which is added a differential adjust-[fol. 1074] ment to construct joint rates from defined territories such as Chicago, Milwaukee, Peoria, and so forth. Other joint rates have been based upon arbitrary proportions required by each set of carriers beyond the interchange point, such as Kansas City or St. Louis. Other rates are based on the local or proportional rates to the gateways, to which figures have been added, arbitrary proportions, between the interchange points, such as East St. Louis, Thebes. Rates on lumber for instance, were based on the June 24, 1918 combination on Thebes, increased and reduced as the result of the various advances and reductions ordered in by the Commission as more fully explained

by Mr. Lehmann. Other rates have been established to permit the products of the farm, orchard or mines produced in the Southwest to move to the northern markets or Western Trunk Line Territory in competition with the same character of traffic from other sections, or produced locally in Western Trunk Line Territory. In such instances the Southwestern carriers have allowed their connections the proportions they required beyond the gateways. Their earnings in some instances being based on revenue received on similar traffic from competitive producing points, the Southwestern carriers accepting the remainder (Tr. 5443).

I will not take up the question of our interchanges with various connections. On page 2 is shown the number of cars interchanged by the Frisco with its various connections at Kansas City for the month of July 1925, which is representative. I refer to the Frisco's Western Trunk Line connections. The total cars delivered by the Frisco to the Southern carriers listed on page 2 was 4,600 cars. The total cars received by the Frisco from these seven connections totals 1,098 cars, or a ratio of 4.19 of cars delivered to Frisco connections at Kansas City versus cars received. On page 3 I have shown the interchange between the Frisco and the various carriers listed on that page for the years 1922 to 1924, inclusive; also for the 10 months of 1925. Our [fol. 1075] interchange points with the C. & A. is at Kansas City and East St. Louis-St. Louis; with the C. G. W. at Kansas City, only; C., M. & St. P. at Kansas City only; C. & E. I. at Chaffee-Thebes-St. Louis-East St. Louis; Illinois Central we have a great many points of interchange, St. Louis-East St. Louis, Memphis, Tennessee, Holly Springs, Mississippi, Aberdeen, Mississippi, Birmingham, Alabama. There is also an interchange of coal in connection with the C. & E. I. through Chaffee. Our point of interchange with the Wabash is Kansas City, also St. Louis-East St. Louis (Tr. 5444).

Take the C., M. & St. P. for example, the Frisco delivered to that carrier at Kansas City for the 10 months of 1925, 223,167 tons of carload freight and received from the C., M. & St. P. in the same period 34,278 tons of carload freight. On page 4 is shown a statement of the carloads interchanged between the Frisco and the C. G. W. at the point of interchange, Kansas City, for the month of October 1925, indicating the character of the northbound and

southbound traffic. The total cars delivered was 191, the number received was 45. On page 5 is shown the tonnage interchanged between the Frisco and the Santa Fe, Burlington and Rock Island. The tonnage figures via the Santa Fe include interchange at a great many points throughout the Southwest. With the Burlington our interchange connection is at Kansas City and St. Louis. With the Rock Island we have a great many interchange points. The figures for both the Rock Island and the Santa Fe cover our total interchange at all junctions.

On pages 6 to 17 the population is shown of the cities and towns along the Frisco in Missouri together with the freight traffic density on the main lines and branch lines located in Missouri. This data was introduced in connection with I. & S. 2247, 100 I. C. C. 274, I want to call attention particularly to the light population on our Missouri Line, also the light density on the various branch lines (Tr. 5444-5445).

[fol. 1076] The total mileage shown on page 17 of 1,754.1 miles has been increased subsequent to the date of this hearing in I. & S. 2247 by the acquisition by the Frisco of the K. C. C. & S. Railroad, which added to that total mileage 108.14 miles. The road I just mentioned is now a branch of the Frisco and that same amount 108.14 miles should be added to the item 890.2 miles shown as the total and average of branch lines. That results in the following total of branch lines in Missouri on the Frisco, 998.14 miles, leaving the main line mileage 864.10. The proportion of branch line mileage to main line mileage is 53.6 per cent.

I will next deal with the question of rates—rate levels Western Trunk Lines versus points in Southwest, which is supplementary to the information given by Mr. Reed and deals with some specific points. For example, on page 28, 4th line you will note that for a distance of 343 miles Western Trunk Line Territory, Des Moines, Iowa, to East St. Louis, the first four class rates are as follows: 87 cents, 67 cents, 53 cents and 39.5 cents, or a total for the 10 classes of 398. For a similar distance in Southwestern Territory namely St. Louis to Springdale, Arkansas, the seventh item on the page, the distance is 343.6 miles, the first four classes being as follows: 160, 139, 111.5, 96, a total for the 10 classes of 871.5 or 219 per cent higher in the Southwest than in the Western Trunk Line Territory (Tr. 5445-5446).

Another example, the class rates from Madison, Wisconsin to East St. Louis, the seventeenth item, distance 363 miles, for the first four classes 88.5, 75, 59.5, 44.5 or a total for the 10 classes of 425.5. Comparing this item with the twenty-fifth item on the page, rates to Kansas City to Atoka, Oklahoma, distance 360 miles, first four classes, 160, 140, 128, 115.5 or a total of 970, the Southwestern rates in that block are 278 per cent of the rates in Western Trunk [fol. 1077] Line Territory. Another one I might call attention to is Freeport, Illinois to Kansas City as compared with Kansas City to Durant, Oklahoma, the distance of the four, 397 and 391 respectively which shows that the rates in Southwestern Territory for that block are 264.9 per cent higher than in the Western Trunk Line Territory. On page 28 similar comparisons may be noted. The Southwestern rates range from 119 per cent to 203.6 per cent of the Western Trunk Line rates.

I will now discuss the question of rates and divisions via the Thebes gateway. Rates on classes between Chicago, Milwaukee and points taking the same rates and points in southeast Missouri were originally based on the combination on East St. Louis, Illinois or Thebes, Illinois, using as the factors north the proportional rates published by the Illinois lines in Agent Hosmer's ICC 17, effective September 20, 1909, to which rates were added the local rate from the southwestern lines beyond east St. Louis to Thebes, Illinois and published in Agent Leland's ICC 630 (Tr. 5446-5447).

My testimony deals with the divisions between Chicago and Southern Missouri. Rates from East St. Louis and Thebes to Southeast Missouri points were revised effective February 20, 1919 under the order of the Commission in Docket 9702. To points in southeast Missouri north of Cape Girardeau the rates figure on east St. Louis combination. The stations Cape Girardeau, Missouri and south the Thebes combination applied subject to the rate to the Arkansas border points as a maximum. The present rates are based on the August 25, 1920 factors increased 35 per cent as a result of Ex Parte 74 and reduced 10 per cent effective July 1, 1922. The reason the August 25, 1920 factors were used is because the Commission in Ex Parte 74 restricted the advance in joint through rates within

Western Territory, to 35 per cent. There the present through rates are off the basis I have mentioned it is due [fol. 1078] to the disposition of fractions under the General Order 28 and Ex Parte 74 advances. We have used for illustration the rates dealing in an historical way from September 20, 1909 up to date covering the following representative destination points on the Missouri Pacific, Frisco and Cotton Belt in southeast Missouri, Campbell, Popular Bluff, Delta and Horine, Wilburn, Cape Girardeau (Tr. 5448).

With the exception of Horine, the rates based on St. Louis combintion. To Horine the East St. Louis combination applies. In dividing these combination rates the lines north of Thebes, Illinois received in divisions the factors used north of Thebes in constructing the joint rates, namely, their proportional rate as of date August 25, 1920, increased 35 per cent under Ex Parte 74 and reduced 10 per cent effective July 1, 1922. It is customary to divide rates so constructed as they are made, that is by allowing each set of carriers serving the interchange points the rate factor used for its account to and from the rate basing point. For simplicity in accounting the respective accounting departments of the C. & E. I. and Frisco worked out two percentages to be used instead of applying the class arbitraries. They took the division north and south of Thebes from the first four classes, also cotton piece goods, to work out these percentages. In connection with the Frisco-C. & E. I. divisional case heard by the Commission to which specific reference will be made later, we submitted Exhibit No. 76 showing the revenue to the C. & E. I. on the basis of established arbitraries or specifics north of Thebes covering a representative period, compared with revenue based on applying the percentage basis where worked out by respective accounting departments. The difference was nominal, amounting to $1.13 cents for one month. The Missouri Pacific and the Cotton Belt applied the specific divisions. The detailed data is shown on pages 29 to 41, inclusive, and is self-explanatory (Tr. 5448-5449).

[fol. 1079] The present combination is not published as a through rate for the reasons I have indicated. In this connection I might state that if we had not published joint through rates September 20, 1909 for the convenience of the shipping public the same basis of rates and divisions in

effect today would be in effect except for the difference provided for by the 40 per cent increase in the proportional factor north of Thebes as against 35 per cent used in basing the through rate.

The commodity rates from Chicago and defined territories in Western Trunk Line Territory to southeast Missouri was based in the same manner, that is on either the Thebes or East St. Louis combination using the rate to the Arkansas border point as a maximum. Examples on rates on moving commodities are shown on page 42. Take for example the first item, iron and steel articles, merchant, the present rate from Chicago to Cape Girardeau, Missouri is 37 cents, the distance Chicago to Thebes 378 miles, Thebes to Cape Girardeau 28 miles. The lines north of Thebes contributed for their distance 21.5 cents, the western lines from Thebes to Cape Girardeau for the 28 miles service 15.5. Those two factors combined total 37 cents. Rates on other commodities listed on that page were worked out on the same basis (Tr. 5449-5450).

Where the Arkansas border point rate is observed as a maximum under the fourth section, it does not affect the proportional allowed to the lines north of Thebes, the division. The C. & E. I.-Frisco interchange is made at Chaffee, Missouri a point located 16 miles west of Thebes, Illinois, the western termini of the C. & E. I. The C. & E. I. and the Frisco are the only roads serving Chaffee, Missouri. The divisions applicable via Chaffee, Missouri were under review by the Commission in February 1922 in docket 11,825, 66 ICC 59. Divisions on all traffic to or from Thebes, Illinois in effect February 1922 were found reasonable by the Commission for application to and from [fol. 1080] Chaffee, Missouri, except that the C. & E. I. was allowed in addition to their divisions to or from Thebes, Illinois, 5½ cents on less carloads and 2½ cents on carload traffic, except coal and lumber, and on the latter 2 cents for their service between Thebes, Illinois and Chaffee, Missouri. It was allowed 40 cents on coal. These amounts were reduced 10 per cent effective July 1922. The interchange via Chaffee consists principally of forest products northbound and coal southbound. Mr. Lehmann of the Cotton Belt has covered the rate and divisional feature on forest products in his exhibit, via Thebes. The present division on coal from mines on the C. & E. I. and Frisco

points are the divisions found reasonable by the Interstate Commerce Commission except for the 10 per cent reduction (Tr. 5450-5451).

The Frisco does not interchange any freight via the Chaffee-Thebes gateway with any Illinois lines, other than the C. & E. I. and the Illinois Central. On coal from the Illinois Central and Southern Illinois mines the C. & E. I. acts as intermediate carrier from Thebes Illinois where it connects with the Illinois Central to Chaffee, Missouri where it is delivered to the Frisco. The division on this traffic was established by the C. & E. I. and the Illinois Central in joint conference several years ago. The C. & E. I. was accorded for its intermediate service on January 1, 1925 a division of 14.6 cents per net ton; effective January 1, 1925, this division was increased to 30 cents per ton. The data shown on the Illinois Central traffic exhibit, Witness Balch, No. A-43 covering interchange for the month of June does not reflect the present situation account of change in the arbitraries in division accruing to the C. & E. I. as above referred to. On all northbound traffic delivered by the Frisco to the C. & E. I. at Chaffee, Missouri the Frisco short hauls itself. The bulk of this traffic moves to territory other than points in southern Illinois and the route via East St. Louis is not circuitous, as will be observed by reference to the mileage data shown on pages [fol. 1081] Nos. 43 to 45. The distance for example from Chaffee, Missouri to Chicago via the C. & E. I. is 394 miles while via the Frisco and C. & A. through East St. Louis the distance is 428 miles (Tr. 5451-5452).

I will now deal with the handling of merchandise via the Chaffee gateway. Merchandise from Chicago, Illinois from which point the principal tonnage moves when to southeast Missouri territory, when destined to points in southeast Missouri, is loaded by the C. & E. I. in a package car to break bulk at Chaffee, Missouri. It is handled by the C. & E. I. in a through train from Chicago. When the freight is received by the Frisco, the freight is unloaded at Chaffee and the freight reloaded by the Frisco into a car, eight local way cars. The bulk of the movement on L. C. L. traffic through either Chaffee or East St. Louis is southbound and the distributing service of that traffic through the southwest is made by the Southwestern Lines and not by the Western Trunk Lines. I am going to give details to

show the burden that is placed on the Southwestern Lines in distributing that L. C. L. traffic through the Southwestern Territory. Page 3 of my exhibit shows that by far the larger movement of L. C. L. traffic is southbound (Tr. 5452-5453).

When this merchandise traffic is received by the Frisco in a package car from Chicago it is unloaded at the Frisco's Chaffee station and reloaded by the Frisco into eight local way cars, which are operated over the Frisco out of Chaffee daily to the southeast Missouri Territory and northeastern Arkansas territory served by the Frisco. These cars are handled from Chaffee by local freight crews who distribute the freight through the territory, a substantial portion of which is served by branch lines. On pages 46 and 47 is shown the territory served by each of these cars. Traffic from Chicago territory to Thebes through Chaffee is handled by the C. & E. I. loaded out of their Chicago freight station in what is termed a package car, loaded to break bulk at Chaffee, Missouri. The Frisco unloads the [fol. 1082] car and rehandles it (Tr. 5453-5454).

I will now deal with the handling of less carload merchandise by the East St. Louis-St. Louis gateway. I will first take up the handling of L. C. L. traffic on the Frisco. Merchandise traffic received from connections at East St. Louis and St. Louis is handled by them when from Chicago in their through package cars in their through trains. All this freight must be rehandled by the Frisco and distributed to points of destination by way cars in local service. Freight received at St. Louis is reloaded by the Frisco into 73 cars for distribution to various points (Tr. 5454).

The details as to these schedule cars are shown on pages 48 to 56 inclusive. Some of this merchandise traffic is loaded out of St. Louis for other transfer points. Note car 14, page 49, which carries freight for Springfield, Missouri transfer covering the territory for a substantial distance out of Springfield, including branches. Another such car is No. 50, page 53, Tulsa transfer car. The freight loaded out of St. Louis in cars such as these must be reworked at the transfer points designated and loaded in way cars serving the destination territory. Similar data is shown covering the cars loaded out of Kansas City daily, of which there are 67.

Kansas City data is shown on pages 57 to 64, Springfield, Missouri data is shown on pages 65 to 71. From Tulsa, Oklahoma we load daily 39 cars, the data covering these being shown on pages 52 to 76 inclusive. Similar cars are operated daily from Monett, Missouri, Memphis, Tennessee and Fort Smith, Arkansas. There are no through package cars loaded out of Chicago to Fort Scott points routed through Kansas City gateway. Such traffic as is received by the Frisco from connecting lines at Kansas City, the Wabash for example, is handled in through package cars, Chicago to Kansas City in through trains and is rehandled at the Frisco Kansas City depot and reloaded into the 67 cars, which we daily load out of our Kansas City [fol. 1083] freight house (Tr. 5455).

The C. & E. I. load some cars which break bulk at transfer points west of St. Louis, for example Springfield, Missouri, and that is why I have included some of our interior transfer points. The extent to which we distribute less than carload freight is apparent by an examination of the data shown on pages 77 to 95 inclusive, showing tonnage handled during October 1925 from Chicago via East St. Louis to each Frisco station. The tonnage from each origin point is separate. The data for the Illinois Central was not compiled. In November 1925 however, we received 481,859 pounds of merchandise from the Illinois Central at East St. Louis. The total on page 79 for the competitive points is 58,285 pounds. The grand total on page 81 for the local points is 113,982. The total for competitive points on page 82 is 39,435 pounds. The total for local points on page 84 is 85,870, the total, competitive points on page 94, is 1,965,115 pounds. The total local points page 95 is 835,979 pounds. From this data I want to acquaint the Commission to the extent to which the Frisco is called upon to perform the distribution service of the merchandise traffic received from Western Trunk Line points, the principal tonnage being from the city of Chicago (Tr. 5456).

The service given by the Frisco is illustrative of similar service given by other Southwestern carriers involved in this case via some routes. If we handle any merchandise from Chicago in through package cars to Texas, we rehandle at St. Louis and deliver to our connections at Fort Worth and it would be rehandled there and distributed from that point. On page 96 is a statement showing differ-

entials used in making rates from defined territories to points in Missouri and Oklahoma which I will refer to shortly.

I will now take up the question of rates and divisions via the East St. Louis-St. Louis gateway. As previously stated the through rates on classes from Chicago and other points in the defined territories in Western Trunk Line to South- [fol. 1084] eastern Missouri were constructed on the Thebes or East St. Louis combination. To the territory north of Cape Girardeau the East St. Louis combination applies; to the territory Cape Girardeau south the Thebes combination. In the division of these rates via East St. Louis gateway the Illinois lines are allowed when from Chicago for their service north of East St. Louis 65 per cent of the proportion accruing north of Thebes, Illinois, namely their proportional rate, which they used in making the present through rate. I refer to the August 25, 1920 proportional rate factors increased 35 per cent and reduced 10 per cent, the proportional of 65 per cent based on a mileage pro-rate as explained by Mr. Sickel (Tr. 5457-8).

The local rates south or north of East St. Louis are observed as maximum. To points north of Cape Girardeau, Missouri where the East St. Louis combination was used to construct the through rate, the lines north of East St. Louis received in the division the factor they contributed, namely their proportional rate as of August 5, 1925, increased 35 per cent and reduced 10 per cent. 65 per cent basis cannot be questioned because it would apply in dividing via East St. Louis the Chicago to Thebes proportional rates if through rates had not been specifically published. In other words had we not published a through tariff in 1909 the traffic today would move on basis of the present proportional rate to Thebes but the local beyond of that proportional rate to Thebes would divide by allowing 55 per cent north of East St. Louis. The only difference between that basis and the one that the lines north are now receiving is the difference of 5 per cent, as the result of the increase under Ex Parte 74 being 40 per cent Chicago to Thebes, Illinois proportionately, whereas the through rate was increased 75 per cent. The same basis is applied in dividing through commodities, commodity rates which were [fol. 1085] based as I have previously described (Tr. 5458).

The rates on classes from Chicago to points on the Frisco east of Springfield, Missouri, also south of Springfield, Missouri, in the direction of Thayer, Missouri, are published in Frisco's ICC 6005, and were based on using proportions shown in Illinois Freight Committee's rate sheet 3-B for lines from Chicago to East St. Louis, Illinois, plus rates beyond St. Louis per St. L. S. F. Railway, Ice 8005, subject when to points east of Springfield, to the Chicago to Springfield rate as a maximum; to points south of Willow Springs, Missouri, to Williamsville, Missouri, inclusive, the Thebes, Illinois, combination was used; using as the eastern lines factor the Chicago to Thebes proportional rate as of August 25, 1920, increased 30 percent, reduced 10 percent, observing as a maximum the Springfield combination; where the Thebes combination applies, the lines north of Thebes receive their proportional rates as of August 25, 1920, increased 35 percent, reduced 10 percent. As per Agent Boyd's ICC A-778. When via East St. Louis the lines north receive as their proportion the division used in constructing the through joint rates, their proportion being shown in I. S. C. division sheet three series. When the Chicago to Springfield rate is observed as a maximum the lines north of East St. Louis receive Springfield revenue (Tr. 5459).

On page 97 I have shown representative examples. The rates on some of the classes do not check with the combinations factors to and from the junction because the competitive rates were published as through rates prior to the general advances and the disposition of fractions throws the through rate off the present combination ½ to 1 cent in some instances. I referred to the rates from Chicago to Cuba shown at the top of page 97 compared with the combination factors shown at the bottom of the page. The [fol. 1086] rates on commodities are based on the East St. Louis or Thebes combination and divide as made. These examples are representative of the situation. To points in southwestern Missouri and Springfield, Missouri and west class and commodity rates are based differentials over the rates from St. Louis. These differentials are shown in detail on page 96. The through rates are published in Agent Boyd's tariff 18-C ICC A-1357. The present class

rates from St. Louis and Springfield, Missouri, have been influenced by the St. Louis to Kansas City adjustment and are the same or only slightly higher than the rates to Kansas City. The figures are as follows: St. Louis to Kansas City first class 92, second 78, third, 64½, fourth 46, fifth 33½, A 37, B 29½, C 26, D 20, E 17. St. Louis to Springfield rates first 94, second 79, third 64½, fourth 48½, fifth 38½, A 43, B 36, C 26, D 23, E 20½. As has been suggested by the carriers, also the Commission in numerous instances, the St. Louis, Missouri, to Missouri River rates are among the lowest in Western Territory, being depressed by competition as well as rate equalizations, equalization processes (Tr. 5459-5460).

Prior to June 25, 1918, the East St. Louis and Kansas City lines operated 60 cents scale between the rivers while from Chicago to Missouri River the rates were differentially related to the Missouri River rates, which projected a relatively lower basis of rates from Chicago to the River. To points in southwest Missouri and west of Springfield the rates grade up over Springfield. The current rates to Carthage and Joplin, Missouri, 74 to 94 miles respectively west of Springfield, are as follows: 112½, 97, 76, 61, 43, 50½, 42, 33, 26, 23. "To the territory immediately south of Springfield to the Missouri-Arkansas state line near Thayer, Missouri, the rates are higher than the St. Louis to Springfield rates, being based on the application of the [fol. 1087] 9702 scale from St. Louis figuring the mileage via Springfield, observing the Springfield combination as a maximum. That is southbound only. In dividing the Chicago-Springfield, Missouri, rate—this applies also to southwest Missouri points—the Chicago to East St. Louis lines are allowed Missouri River revenue. The basis for the Missouri River revenue was fully explained by Mr. Sickel. To points in Missouri west of Springfield the Chicago to East St. Louis lines are allowed the same revenue they receive on Springfield, Missouri, traffic. In other words the same revenue they earn Chicago to East St. Louis on traffic to the Missouri River proper (Tr. 5461).

Where the conditions are reversed, namely on traffic to or from St. Paul, the Southwestern carriers are allowed revenue west of Kansas City. The Chicago-East St. Louis

lines earn the following divisions in cents per 100 pounds for their service east of St. Louis, using the first four classes: 54, 43, 29, 19. They receive in excess of what they earn out of any other class rate traffic handled between Chicago and East St. Louis other than local traffic, for example on a shipment of merchandise from Detroit, Michigan, to East St. Louis they earn for their service Chicago to East St. Louis the following: 47.8, 40.3, 31.3, 23.7. On a shipment from St. Paul Territory going to St. Louis they earn for their service Chicago to East St. Louis the following: 36.4, 29.3, 23.6, 17. That is shown on page 98 of my exhibit. To the best of my knowledge those are the going rates on that traffic. Their service in handling this class of traffic is similar to that as on Chicago to southwest Missouri traffic (Tr. 5461-5462).

The individual lines published those percentage sheets. If they have been changed I have not been advised of it. The Chicago-East St. Louis lines earn the same divisions on this southwest Missouri traffic as they receive on ship-
[fol. 1088] ments from Chicago territory to points in Oklahoma, Colorado or Utah common points via East St. Louis. The class rates from Chicago and other points in Western Trunk Line Territory to points in Oklahoma are based differentially over the rates from St. Louis using differentials as shown on page 96 and are published in Southwestern Lines tariff 15-L, Agent Leland's ICC 1562. The rates from St. Louis are on approximately the 9702 scale. That is to the entire state of Oklahoma. Witness Sickel explained the divisional situation. On traffic from Chicago to points in southwest Missouri the Frisco earned less for this service west of East St. Louis than it earns on similar traffic from points competing with Chicago, for example the first class rates, Chicago to Joplin is -1.42½, which divides 54 cents Chicago to East St. Louis, beyond 88½. On similar traffic from Peru, Indiana, approximately the same distance from East St. Louis as is Chicago, we earn on first class traffic $1.12½ versus 88 cents west of East St. Louis on Chicago traffic (Tr. 5463).

Peru is in C. F. A. Territory. The through rate from Chicago to Joplin is $1.42½. That is shown on the middle block on page 99. I am making a comparison showing

that the earnings under this rate are 88 cents to the Southwestern Line while under the rate from Peru to Joplin our earnings are $1.12½. First class rates from Chicago to Enid, Oklahoma is $2.27½ and divides by allowing for the service Chicago to East St. Louis 54 cents and allowing west of East St. Louis $1.73½; on similar traffic from Peru, Indiana, the first class rate is $2.46½ which divides Peru, Indiana, to East St. Louis 62½ and west of East St. Louis $1.84, or 10½ cents more on Peru, Indiana, traffic than the lines west of East St. Louis earn on traffic from Chicago for similar service west of East St. Louis. On pages 99 to 107 are shown numerous other instances all of which show the same result and the same relative earnings (Tr. 5464). [fol. 1089] On class traffic from points in C. F. A. Territory to points in Oklahoma the Frsico earns more for its service west of East St. Louis than it earns on similar traffic from Chicago for service west of East St. Louis. For example on the first four classes, Chicago to Tulsa, Oklahoma, the Frsico earns for its service west of East St. Louis the following divisions: $1.51, $1.39½, $1.08, 87, shown on page 105, while on traffic from Detroit it earns west of East St. Louis $1.71, $1.43, $1.22½, $1.01½; on Chicago to Hugo, Oklahoma the Frisco earns west of East St. Louis $1.69½, $1.62, $1.44½, $1.25½, page 107; and on traffic from Pittsburgh, Pennsylvania to Hugo it earns west of East St. Louis $1.92, $1.62, $1.38½, $1.19½. Other similar comparisons are shown on pages 105 to 111 inclusive (Tr. 5464-5465).

Of the earnings east of East St. Louis on Joplin, Missouri, traffic the C. F. A. lines get a much larger percentage of the rates than the Western Trunk Lines do on traffic north—traffic from Chicago, for example, for substantially the same haul. That might indicate that the Chicago rates are too low. That is the only comparison that you can draw. Of course our earnings are greater on that class of traffic west of East St. Louis than Chicago and the earnings of the Eastern Lines are greater than the earnings of the Chicago-St. Louis line. The result is that on the C. F. A.-Chicago traffic the earnings of both such carriers are greater because there is more money to divide. The Chicago man gets into our local territory at our expense (Tr. 5465-5466).

The Chicago-East St. Louis Line on iron and steel articles from Pittsburgh, Pennsylvania, to East St. Louis receives 28 percent of the local rate of 43 cents, or 12 cents. On shipments from Pittsburgh, Pennsylvania destined to points in the Southwest moving under through rates they earn, Chicago to East St. Louis 9.9 per 100, or 28 percent [fol. 1090] of 35½ cents, which is the division Pittsburgh to East St. Louis on traffic for Oklahoma. On similar traffic from Chicago to points in southwest Missouri, also points in Oklahoma, the Chicago to East St. Louis lines receive a division of 18 cents per 100 pounds. In that connection I might mention that the rate on merchant iron from Chicago to Tulsa, minimum 46,000 pounds is 69 cents. On shipments from Pittsburgh, Pennsylvania, destined to Missouri via the Kansas City gateway the Frsico earns less for its service than other western lines earn for similar mileage hauls west of Kansas City on traffic from Chicago; for example on a first class shipment from Chicago to Carthage, Missouri, the Frisco earns west of Kansas City 58½ cents for a haul of 151 miles while a similar shipment to Helmich, Kansas, the line west of Kansas City earns 74.9 for a 152 mile haul. Other instances are shown on page 112 and 113. Page 112 shows the through rate to Carthage and Helmick. "A" is through rate. Through rate is lower to Chicago. I would not say that that exactly accounts for the shrink. We get less revenue than other lines do for similar service west of Kansas City. One factor might be that there isn't enough revenue to divide (Tr. 5466-5467-5468).

The proportions received by the Western Trunk Lines for their service to Kansas City on traffic from Chicago to points in Oklahoma are approximately the same or greater than they earn on other joint traffic where their hauls are the same; for example the line east of Kansas City, the Wabash for example earns on Chicago to Tulsa traffic for their haul of 452 miles, using the short line distance on first four classes 90.4, 81.4, 55.9, 46.6, while from Omaha to East St. Louis 417 miles the Wabash earns 81.5, 65.1, 42.8, 31.1, out of the Omaha, Nebraska to Cairo proportional rates. [fol. 1091] Other similar examples are shown on page 114. The Frisco handles very little traffic beyond Kansas City originating at St. Louis destined to points in southwest

Missouri, or Oklahoma points. This is because of the fact that the Frisco rails extent West or southwest from St. Louis. The distance via the Wabash or C. & A. to Kansas City then Frisco to this territory is circuitous. The extent of circuitity to representative points is shown on page 115. To Springfield, Missouri, the route St. Louis to Kansas City thence Frisco to Springfield is 212.5 percent of the short line route. To Tulsa the route through Kansas City is 137 percent of the short line distance (Tr. 5468).

The Western Trunk Lines earn approximately the same revenue on miscellaneous carload traffic from the southwest via East St. Louis gateway for their haul East St. Louis to Chicago as they earn on similar through traffic interchanged via the same junction originating in other territories. Note examples on page 116. To illustrate, on ore, lead, zinc, concentrates, from Henrietta, Oklahoma, to Chicago, the lines north of East St. Louis earns 6.3, which is the same revenue they earn on similar traffic from Cherryvale, Kansas. Another illustration is the division on crushed stone or chats from Carthage, Missouri, to Chicago, the lines north of East St. Louis earning 6.1 out of a rate of 18½ cents. That rate is in cents per 100 pounds. This is the same division they earn north of East Et. Louis on the same commodity from Galena, Kansas, to Chicago the rate being the same. Other comparisons are shown of the divisions via Kansas City merely to show the extent of the competitive relationship, the route via Kansas City versus the route to East St. Louis. The various exhibits showing interchange for June 1924 indicate a large movement of tin cans, carloads, from Chicago rate points to Frisco des- [fol. 1092] tinations in Missouri and northwestern Arkansas. The Commission in its recent decision in I & S 2107 revised the rates on tin cans from Chicago and points taking the same rates to points in the so called 9702 territory, effective October 2, 1925, from Chicago to Arkansas points such as Elkins and Bentonville, Arkansas (Tr. 5469).

The present rates are based on the 9702 scale, using the mileage from St. Louis plus a differential of 15½ and 8 cents per 100 respectively being the present fourth class rate difference, Chicago over St. Louis. Tin cans are rated fourth class. On Arkansas traffic the Chicago to East St. Louis lines earn fourth class divisions of 27½ cents to St.

Louis as shown in I. F. C. Division sheet 5, their present proportional rate is 28½ cents, Agent Boyd's ICC A-1438. The latter proportional rate is 40 percent higher less 10 percent than the August 25th rate, while the 27½ cent division is 35 percent higher less 10 percent. From Chicago to Springfield, Missouri, the present rate on tin cans is figured on the basis of the 9702 scale from St. Louis plus 7 cents per 100, the present fourth class difference Chicago over St. Louis to Springfield. To the territory in Missouri immediately south of Springfield, points such as Mansfield, West Plains, Missouri et cetera, various rates were established effective October 22nd but on an improper basis exceeding the Springfield combination. The question of revising these rates is now having our attention and an effort will be made to straighten out the situation promptly. Either the Springfield combination will be established or the Chicago to Mammoth Spring, Arkansas rate of 81½ cents will be applied. I merely call attention to this situation now to show that the June, 1924, statistics do not reflect the present situation (Tr. 5470).

[fol. 1093] The lines north of East St. Louis from Springfield, Missouri, traffic receive 22 cents or 3 cents higher revenue than they earn on similar traffic destined to Kansas City proper. Authority, Illinois Freight Committee Division Sheet 3, item 90. On the Illinois Central traffic statistics for 1924, they show a movement of coal from Illinois mines to stations on the Frisco via East St. Louis and St. Louis. The present rates on coal from Illinois mines to Frisco stations west of St. Louis were established several years ago based on allowing to East St. Louis a proportional rate of 25 cents per net ton to which was added the Mississippi River bridge tolls plus arbitrary proportions of the Frisco west of St. Louis. Later the proportion for the initial lines was revised to 30 cents per net ton due to an advance in their rates in Illinois. After the advance under General Order 28, June 25, 1919, the proportion for the initial lines was by agreement made 42 1/2 cents per net ton; under Ex Parte 74 the rate became 57.4 cents per net ton and as the result of the July 1, 1922, reduction 51.7 cents per net ton. Rates from DeQuoin and Murphreesboro and southern Illinois groups are made differentials 7 1/2, 19 1/2 and 22 1/2 cents per net ton respectively

higher than the rates from Bellville, the base group. In dividing these rates from the other groups the Frisco received west of St. Louis, Bellville's revenue. In this connection I want to state that the Illinois Central has recently established rates from their west Kentucky mines based on 136 per net ton to East St. Louis, plus the Mississippi River bridge tolls allowing the Frisco west of St. Louis Bellville earnings. Those rates will divide as made. This is an example of the way a great many of our rates are constructed to and from the East St. Louis gateway (Tr. 5471-5472).

I will now take up the question of rates and divisions on [fol. 1094] fruits and vegetables. The June 1924 statistics as to other carload traffic include a great many cars of strawberries and peaches. That by far is the greater proportion of the other carload traffic interchanged with the Frisco Railroad for the month of June 1924. There is a large volume of fruits and vegetables originated in southern Missouri and Arkansas and going to Western Trunk Line Territory. I might read into the record the production of fruits and vegetables on the Frisco, the bulk of which moves to the popul-us sections of the north and east. The Frisco produced for the year 1925 the following: Apples 3,791 carload; cantaloupes 458; peaches 168; that was a light year; the previous year was 628 carloads; potatoes 798; strawberries 1,585; grapes 442; sweet potatoes 86; cucumbers 11; tomatoes 42. The present divisions on berries, except for the general advances and reductions, are the result of an agreement between the Western Trunk Lines and the Southwestern Lines several years ago. Later on an agreement was reached as to the divisions on peaches and grapes (Tr. 5472).

On pages 119 to 153 inclusive are shown extracts from Western Trunk Line records indicating the basis of divisions together with copies of the division sheets of the Western Trunk Lines in effect prior to the agreement. Copies of letters of Western Trunk Line roads agreeing to the divisions as now published. The current divisions are shown in joint division sheet issued by the Misouri Pacific, their division basis 5984, copy of which is contained in Witness Buhrle's Exhibit No. A-5 and is listed in Buhrle's Exhibit A-8. Pages 117 to 123 deal with the Western

Trunk Lines, their records as to divisions on strawberries. The report of the divisions committee which was finally adopted in conference with the Frisco shows the arbitraries north of Kansas City and East St. Louis which were finally agreed upon, that being shown on page 123 together with [fol. 1095] the basis for those proposed arbitraries which was an average of the third class rates. On page 120 is explained the basis for the proposed arbitraries. On pages 124 to 141, inclusive, are shown copies of the division sheets of the principal Western Trunk Line roads, also the Frisco sheet, showing the divisions on berries prior to the divisions being incorporated into the joint sheet. There is also reproduced copies of correspondence with the principal Western Trunk Line roads advising of their acceptance of the basis shown in the Missouri Pacific sheet. On pages 142 to 153, inclusive, is reproduced copies of the division sheets of the principal lines involved dealing with the rates on peaches (Tr. 5473).

On page 154 is a list of the Southwestern Freight Bureau lines who are interested in the agreement as published in the Missouri Pacific sheet and on page 155 a list of the Western Trunk Line roads involved. The rates on strawberries and other fruits from southwestern Missouri and northwestern Arkansas are divided both on the arbitraries and on the percentages published in Western Trunk Line's division sheet, 315-A. It depends upon the origin territory. I have made no figures as to proportions. I don't know what the proportions would be. My understanding is the Western Trunk Line roads in their committee handling were of the opinion that the greater proportion originated in the territory in connection with which they worked out agreed arbitraries but I never made any test of it myself. The rates published by the Frisco on strawberries were constructed with regard to the revenue of the Frisco for its service to St. Louis. The rates were not made on a mileage basis. Neither were they made on a differential over some basing point. They were made by combining the factors of the respective carriers; that is the Frisco in the southwest and the lines north of East St. Louis on the north. In April 1906 the Frisco published in ICC 5200 revised rates [fol. 1096] on strawberries as explained on pages 156 to 158. They established the rate from Fort Smith, Arkansas, the base group to St. Louis of 59 cents. Through rates

were constructed using Chicago for illustration (Tr. 5474-5475).

The rate of 59 cents applied to both St. Louis and East St. Louis. It divides, of course, so that we give 56 cents to St. Louis, 3 cents for the transfer. We have to pay the terminal for handling from St. Louis to East St. Louis. The rate was made 50 cents to St. Louis and applied to East St. Louis. I don't know what they took into account. I did not examine the record to develop that fact. But we established the rate from Fort Smith, Arkansas, the base group, to St. Louis of 59 cents and applied it to East St. Louis and to that factor we added a local rate of 18 cents per 100, applied north of East St. Louis to Chicago, first advancing the 18 cent rate 118 percent because the 18 cent rate carried a minimum of 20,000 pounds while the through rate we were constructing was to carry a minimum of 17,000 pounds and it was to return the lines north of East St. Louis their local rates that we increased said rate 118 percent (Tr. 5475).

The local rate was 18 cents as published in C. & A. ICC 1518. That issue was governed by the Illinois classification No. 10, Agent Tucker's ICC 38, and strawberries, carloads were fifth class. The data we had in our records indicated a local rate was used and we did not develop that the Illinois classification classified berries as fifth class instead of third until after these sheets were prepared. So on the Chicago statement, the Chicago rates, where we show the third class rate north, it was the fifth class rate. The rate was 18 cents applied to a minimum of 20,000 pounds. [fol. 1097] And we increased it 118 percent to 21 cents so as to allow north of East St. Louis the same revenue per car on 17,000 pounds as they would have earned on the 18 cents for 20,000. That made a rate from Fort Smith to Chicago of 80 cents. Rates to other points shown on page 156 to 158 were constructed in a similar manner, that is on the East St. Louis combination, increasing the northern factor 118 percent, because of the varying of the minimum north versus south, the through rate carrying a minimum of 17,000 pounds (Tr. 5476).

The 59 cent factor of the western Lines was for a haul of 419 miles, the 21 cent factor for the East St. Louis-Chicago

lines for a haul of 279 miles. The western carriers contributed 73 3/4 percent of the through rate performing 60 percent of the service. Rates from other origin points were made differentials over or under the base group, Fort Smith. The rates were made applicable via Kansas City and the basis agreed upon with connections via that gateway. The lines beyond Kansas City meeting the competition of the East St. Louis carriers. The Frisco at that time handled the bulk of the traffic via East St. Louis and that situation exists today. The rate published to St. Paul of 1.07, the East St. Louis combination, increasing the eastern factor to 118 percent was later revised to the Texas common point rate of 91 1/2 cents. The rates, the basis for which is explained on pages 156 to 158, divided as made. That is, Frisco to East St. Louis receives the factor contributed in the basing rate and the lines north the factors they contribute. In other words the customary method of dividing rates made as I have outlined was applied. On page 159, have shown rates and divisions on strawberries via East St. Louis in effect prior to the agreement between the Western Trunk Lines and the Southwestern Freight Bureau Lines as to the basis of divisions to be applied. [fol. 1098] Also the division resulting from the agreement and how these present rates divide (Tr. 5476-5477).

It will be noted that on berries from Fort Smith, Arkansas, to Chicago, while the lines north of East St. Louis originally received 21 cents, the factors that they contributed in the basing of the 80 cent rate, they were subsequently allowed a division of 22 cents, or in other words 1 cent more than the factor used for their account in constructing the through rate. That factor was the local rate and not one of the so called arbitraries or differentials. I gave the authority for that a moment ago. The present divisions reflect an increase under Ex Parte 74, 35 percent, first came the General Order 28; in other words this agreement was in effect prior to 1917; I haven't got the exact date of the agreement (Tr. 5478).

Referring to the St. Paul figures subsequent to the 91 1/2 cent rate, the rate went up 25 percent, then 35 percent, and was then reduced 10 percent. The 48.6 should be an increase over the 32 cent rate in the same ratio. As a result of those increases the Western Trunk Line division has in-

creased 16.6 cents and our division was increased the difference between 56 1/2 and 85.4 cents. On page 160 I have shown the present rates and divisions, the only difference between 159 and 160 is that 160 shows a great many more destination points. We did not have time to work out the data shown on page 159 for account of all the points shown on page 160. We just took the main representative points. The current rates and divisions via Kansas City are shown on page 162. The lines east of Kansas City, on berries from Springdale, Arkansas, for example prior to 1913 received 25 cents (Tr. 5479).

[fol. 1099] On shipments destined St. Paul this division was increased to 38 cents although on berries from Texas they earned 32 1/2 cents. The present division is 57.7 cents. On page 161 there is shown the rates and divisions on berries via Kansas City on various dates. In other words these two sheets are a companion of the other two except that they apply via Kansas City, and page 162 carries some additional points not included on 160. Because of lack of time we could not work out the same data on all the points that are shown on 162, as are shown on 161. Looking at Springdale, Arkansas, via Kansas City to Chicago, shown on page 161, the Frisco to Kansas City has a haul of 261 miles and gets 65.8 cents; the eastern lines have the haul from Kansas City to Chicago, the short line milage of 452 miles and get 51.7 cents. These divisions were worked out in conference between the Western Trunk Lines and the Southwestern Lines, taking three represenative groups of origins, the tariffs have thirteen groups of origins and the Western Trunk Line roads selected three groups of origins which they thought were representative of the situation and applied a rate pro-rate using the third class factor up to Kansas City and beyond, up to East St. Louis and beyond, and with those factors, or from those factors they arrived at a set of arbitraries satisfactory to them and agreeable to the Southwestern Lines for their service, constant service north of Kansas City or north of East St. Louis. These divisions represent the approximation of the rate pro-rate reached at that time, except as increased under General Order 28, Ex Parte 74, and reduced 10 percent July 1, 1922. Naturally the Kansas City gateway took into account the competitive route through East St. Louis to certain points (Tr. 5480-5481).

The Farmington, Arkansas, situation from Chicago, 276 [fol. 1100] miles south, 77 1/2 cents and for 452 miles north 40 cents looks a little out of line. That is shown on page 101, the averages from groups 2, 5, and 8. The third class rates are shown. On page 121 is reproduced a copy of the Western Trunk Line records showing the basis for those offsets. I did not check each one of them out because on page 120 is explained the basis for the proposed arbitraries from the Western Trunk Line records and I took it at 100 percent fact value (Tr. 5481).

I will not deal with peaches. The rates on peaches were established years ago using class "A" rates and divisions which were agreed to by our various connections at Kansas City and East St. Louis. The proportions accruing beyond the gateways were stated in arbit[redacted]es. These divisions were also under review by the [redacted]estern Trunk Lines and the Southwestern carriers and during 1917 an agreement was reached as to the specific proportions which the Western Trunk Lines were to receive beyond Kansas City or East St. Louis. These proportions were published in the Missouri Pacific division sheet previously referred to. On pages 163 to 165 are shown the third class rates from representative origin groups to and from Kansas City, also St. Louis; and on pages 164 to 165 are shown the averages for the 11 groups, that is the average of the third class rate pro-rate. The proportions finally agreed upon were slightly in excess of these average figures. For example, turning to page 165 the average for the Des Moines group shown at the extreme right of the page 17.4, the proportion agreed upon was 18.7. On the next group, the Cedar Rapids group a division of 20.2 was agreed to, the average being 18.9. The next group St. Paul, the division of 25.9 was [fol.1101] agreed to, the average for the 11 groups being 24.7 (Tr. 5482).

On the Chicago group the division north of Kansas City, 22.4 was agreed to, the average of the 11 groups being 21. Via East St. Louis, page 164, the lines north were allowed on Des Moines group 20.2 the average of the 11 groups 16.6, Cedar Rapids group 21.9 allowed north of St. Louis the average of the 11 groups 17.9; on St. Paul group, lines north allowed 26.4, average of the 11 groups 22.4; on Chicago group, lines north allowed 17.4, average of 11 groups

13.8. On those two pages, Mr. Towner, pages 164 and 165 you will see the different averages worked out for account of each group, each one of the 11 groups. Now the berries were worked out the same way except that they took three representative groups. That is the three groups that I have shown. They were selected by the Western Trunk Line roads. On page 166 I have shown the rates and divisions in effect on peaches via East St. Louis on various dates. It shows that the lines north of East St. Louis received an advance in divisions as the result of the 1917 conference for example on peaches from Hulbert, Oklahoma, to Chicago, the lines north of East St. Louis prior to May 1917 received 14 cents. Effective May 15, 1917, they were allowed 17.4, on Milwaukee traffic the increase to the lines north of East St. Louis was 5.2 in other words from 16 to 21.2. Other examples could be mentioned. The origin and destination points shown on this exhibit are representative. There are actual shipments from these points and we reflect the general situation (Tr. 5483).

The current rates and divisions via East St. Louis are shown on page 167. The lines east of Kansas City received increases in their divisions as the result of the 1917 confer- [fol. 1102] ence, for example, on potatoes from Van Buren, Arkansas, the following divisions east of Kansas City were made effective to Des Moines, 18.7, the former division was 17.1; Fort Dodge, Iowa, 20.2, old division 18.5; St. Paul, Minnesota 25.9, old division 24.23; Chicago 22.4, old division 20.7; Milwaukee, Wisconsin 23.8, old division 22.2. The current rates and divisions are shown on page 168. Rates on grapes were based the same as on peaches. However, the Western Trunk Lines were unwilling to accept the same divisions as on peaches and as the result of the 1917 conferences the Western Trunk Lines were allowed the same proportions beyond Kansas City or East St. Louis as they received on strawberries resulting in substantial increases in their proportions. For example from Springfield, Arkansas, a representative shipping point, the lines north of East St. Louis on Chicago earned prior to the issuance of the joint division sheet, 14 cents per hundred. This proportion was increased to 22 cents. To Minneapolis-St. Paul the proportion of northern lines was increased 23 1/2 cents to 32 cents. Another example from

Seymour, Missouri, to Chicago, the lines north of East St. Louis received on Chicago an increase of 19 cents to 22 cents. In no case did they receive a reduction (Tr. 5484).

The rates on potatoes from Arkansas and Oklahoma producing points to Chicago were originally constructed by adding to the local rate from Fort Smith, Arkansas, or Fort Gibson, Oklahoma, both of those points being in the center of producing territory, to East St. Louis the rate of 25 cents per 100 pounds, the class "C" proportional rate East St. Louis to Chicago of 12 cents as per Agent Boyd's tariff 506-B, ICC A-281. To St. Paul, Minneapolis the rate of 43 cents per 100 was based on St. Louis combination [fol. 1103] using Fort Smith, Arkansas, or Fort Gibson, Oklahoma, to St. Louis rate 25 cents plus local rate north of 18 cents. The potatoes produced on the Frisco are the early variety and find a market principally in Chicago and the movement is via the East St. Louis gateway. These rates divide as made, that is to say the lines north of East St. Louis receive the proportional rate used in basing the joint through rates or 12 cents per 100 pounds to Chicago and 18 cents per 100 to St. Louis. The present divisions reflect the respective local or proportional rates of the two groups of carriers from and to the gateways, except that on berries. They rework the divisions as I have explained (Tr. 5484-5485).

It is practically the factors contributed by the lines north of East St. Louis in the original basing rate like I pointed out, they contributed 21 cents to make a rate Fort Smith, Arkansas to Chicago for their service beyond East St. Louis, then they were alowed 22, and I gave other exampes along the same line. On potatoes via the Kansas City gateway the lines east of Kansas City agreed to accept the proportions shown on page 169. The division of 14.8 east of Kansas City on Chicago being based on allowing 40 percent of the Fort Smith, Arkansas, rate of 37 cents. Chicago should have been shown in that sheet taking a rate of 37 cents, and Milwaukee was 2 cents higher. 14.8 division was established east of Kansas City in competition with the routes east of St. Louis. As I previously stated the bulk of the potatoes moved through the East St. Louis gateway. That accorded the Frisco its maximum haul. On page 170 I have shown the rates and divisions on apples,

carloads, from representative points to various destinations effective on the dates shown. There is no particular significance about the different effective dates shown here. We made this statement up along the same form of the peaches and berries but apples were not included in the [fol. 1104] agreement with the Western Trunk Line roads (Tr. 5486).

These rates were based originally via East St. Louis by combining the factors desired by the Frisco for its service to East St. Louis to the class "C" proportional rate north required by northern connections, the class "C" factor being shown in Agent Boyd's tariff 506-B ICC A-281. In other words the lines north of East St. Louis were willing to accept class "C" on apples, class "C" being the basis they accepted north of East St. Louis on potatoes. A through rate from Rogers, Arkansas, a representative shipping point, to Chicago, in 1912 was 37 cents, which divided by locals north of East St. Louis with class "C" proportional rate of 12 cents. Subsequent advances and reductions as a result of orders from the Interstate Commerce Commission have been subdivided on a revenue basis. Via the Kansas City gateway the proportions shown on this statement were agreed to by our Kansas City connections who were anxious to handle the traffic via that gateway in competition with the East St. Louis gateway. On page 171 I have shown the present rates and divisions on watermelons from producing points in southeast Missouri and southeastern Arkansas. The notations contained on page 2 at the bottom of that sheet can be cancelled. For example the rate on watermelons from McMullin, Missouri, district to Chicago of 35 1/2 cents is based on the present Thebes, Illinois, combination using locals from McMullin, Missouri to Thebes 12 cents per 100, distance 32.2 miles, plus proportional rate Thebes, Illinois to Chicago of 23 1/2 cents, distance 378 miles; Agent Boyd's I. C. C. A-1438 (Tr. 5487). [fol. 1105] This is an example, Mr. Examiner, that is representative fruits and veegtables. It shows the relationship in our factors up to the river, our rate level with factors north. Here on watermelons we contribute for our 32 mile service to Thebes 12 cents, while our connections north of Thebes contribute 23 1/2 cents for 378 miles. Now rates so constructed are divided as made. That emphasises the

importance of anybody discussing rate features being fully conversant with the basis for the rate. From other producing points in southeast Missouri and northeastern Arkansas, the same basis applies, namely combination on Thebes, Illinois or based arbitraries over the base group. The base group is Clarkton, Missouri, shown on page 171. The Mississippi River transfer service is absorbed by the Southwestern carriers on all traffic (Tr. 5487-5488).

The rates on watermelons from the Clarkton, Missouri, district to Milwaukee are based on the Thebes combination using the local rate to Thebes as shown on Exhibit No. 171 plus the proportional rate from Thebes to Milwaukee of 26 1/2 cents. The rate to Minneapolis based on the St. Louis combination using the rate of 17 cents from Clarkton, Missouri, group to St. Louis is per Frisco ICC 8051 plus rate 27 1/2 cents St. Louis to Minneapolis, Agent Boyd's I. C. C. A-1175. Rates to Des Moines, Iowa, and Sioux City, Iowa, are also based on the St. Louis combination. These rates divide via St. Louis as made, the lines north receiving their local and the lines south their local. Chicago rates divide on East St. Louis by allowing 17 cents to East St. Louis, balance North, or 2 cents less North than the present proportional rate. Authority for this division is Illinois Central Division Sheet 8457, Supplement 13, and C. & E. I. Division Sheet 1, and Frisco Tariff 1250, [fol. 1106] I. C. C. 8051. The route via East St. Louis accords the Frisco maximum haul. The Frisco has no route with the Illinois Central via Thebes. The Illinois Central can only secure a haul in competition with the C. & E. I. via the East St. Louis gateway (Tr. 5488-5489).

I will now comment on the furnishing of equipment for the handling of our fruit and vegetables, also mention other features incident to originating of the traffic. The Frisco is the largest producer of strawberries in the Southwest. This tonnage now constitutes one of its most important sources of revenue. Strawberries are the most perishable traffic we handle. To provide the necessary equipment is hazardous and expensive. Last year the Frisco handled in freight service 1,585 carloads. Equipment to handle this tonnage was secured under contract with the Merchant Dispatch Transportation Co., the Frisco guaranteeing to the latter rental on basis of 2 cents per car mile over the Frisco

with a minimum payment of $2.00 per car per day, the time being computed on the number of days the car remains on Frisco rails, either empty or under load (Tr. 5489-5490).

In other words we pay 2 cents per car mile and guarantee $2.00 per day. Now if we handled the car 100 miles we had no money to pay on the guarantee because the 2 cents per mile basis covered, but if the car remained on hand and did not move the minimum of 100 miles, we had to pay $2.00 per day for every day that that car did not make 100 miles. To properly handle this commodity it is necessary to secure an adequate supply of these cars for several weeks prior to the beginning of the season. The cars usually are received empty from eastern connections, East St. Louis. They are hauled empty over the Frisco either to Monett, Missouri, 282 miles, Rogers, Arkansas, 333 miles, or Fayetteville, Arkansas, 353 miles, where icing facilities are maintained and operated by the Frisco. As [fol. 1107] equipment is needed the cars are placed at the ice docks at either of the three points mentioned to be iced. After being iced they are distributed to the various shipping points. It is not possible owing to the number of cars necessary to take care of the seasons movement to store all of the cars at Monett, Rogers or Fayetteville. The empty refrigerator cars are placed on available sidings as near to the icing stations as possible. Where cars are stored away from icing points it is necessary to switch them to the icing dock at points mentioned to be iced before they can be placed at the various shipping points to be loaded (Tr. 5490-5491).

Berries are so highly perishable that they cannot be left without refrigerator protection. Therefore at times it is necessary for the Frisco to perform special service to take care of a prospective movement which developed after the regular supply of cars has been placed for loading. At the close of each day during the shipping season the Frisco operates switcher pick up service in order to remove the loaded cars at Monett, Missouri, for handling special berry trains to Kansas City and St. Louis respectively. Cars loaded in the territory west of Pierce City, Missouri, are switched to Carl Junction, Missouri, at which point they are picked up, that is for movement via the Kansas City route. At the beginning of the berry season, which starts

usually the last week in April and continues until early in June, the Frisco operates these specials daily regardless of the number of cars available for forwarding, as it is essential due to the highly perishable character of this traffic that it be given expedited movement and that connection be made at Kansas City or St. Louis with regular first class freight trains operated beyond by our various con- [fol. 1108] nections (Tr. 5491).

During the season of 1925, number of cars handled daily by these trains ranged from a minimum of 1 to a maximum of 33 cars. Payment to the Merchants Despatch Transportation Company for the calendar year 1925, covering the use of these refrigerator cars in the handling of perishable products originating on the Frisco, cost the Frisco $72,518.31 over and above the amount received by the M. D. T. Company on the basis of 2 cents per car mile. Premiums amounted to $9.15 per car. The latter amount is the guarantee per car as applied to the entire movement after allowing credit for the mileage paid. We handled in the year 1925, 7927 M. D. T. cars and the amount over and above the mileage we paid them under the basis of 2 cents per mile representing the premium or guarantee of $2.00 per day per car. The Frisco maintains additional forces in the operating department during the berry season to assist in the expedited movement of this traffic, also to supervise this service. Our perishable traffic is not balanced and for that reason it is necessary to furnish this special service to make the connections with the regular schedules, fast service north of East St. Louis or east of Kansas City. In encouraging the production of berries the Frisco has expended thousands of dollars in the construction of freight sheds at the principal shipping points. In connection with the furnishing of equipment to take care of the fruits and vegetables, the originating carrier has to assume the expense resulting from the effect of climatic or other conditions on the volume of production (Tr. 5491-5492).

These conditions are varying and there are at different seasons violent fluctuations in the movement. As an illustration our estimate for the apple crop for the year 1922 was 2,200 cars. Due to adverse weather conditions this condition was reduced that year to 2100 cars, later extremely favorable weather conditions developed and the

[fol. 1109] final movement was 3,060 cars. In the year 1923 our estimate in August showed a possible apple crop of 4,850 cars. In September during the loading season adverse weather conditions brought a reduction in our estimate to 4,200 cars and the actual movement was 4,045 cars. In 1924 crop conditions on apples were normal throughout the entire season. An estimate of 4,400 cars was almost reached, the total movement being 4,403. The season of 1925 started with exceptionally favorable conditions and on July 1, 1925, it was estimated as to the apple crop, a possible production of 6,412 cars, and we made arrangements for a car supply on that basis. In the period of two weeks during the latter part of August or early in September we lost 2,000 cars of apples by excessive heat and drouth. The final figures showed a movement of 4,000 cars. There were violent fluctuations in the cantaloupe production although we have no figures available at this time showing specific figures for past season. The grape crop is usually somewhat more stable, but in 1925 a May frost injured the vines and fruit in such a way as to be extremely difficult to make any safe estimate on our car supply needs. An estimate was made of a -rospective crop of 628 cars, but we only produced 442 (Tr. 5492-5493).

It is necessary to change our estimates on strawberries almost daily during the harvesting season owing to weather conditions; instances have been known where there have been killing frosts that have cut the harvest from two to two hundred cars over night. We maintain a man in the field making daily reports. We must have a refrigerator car ready to receive every crate of berries the day they are picked and our daily loading of berries runs from a few cars a day when weather conditions are adverse to as high as 100 cars in the heighth of the season when weather conditions are ideal. We hold in readiness as many as 200 or 300 cars in the territory during the rush season as a pro-
[fol. 1110] tection against these violent fluctuations which we have no means of taking care of without such an accumulated surplus. Under our present contract with the M. D. T. Company they receive a minimum rental of $2.00 per day. The car haul empty and the great detention of equipment held for fruit and vegetable loading is very heavy and expensive. We took the car record on 50 cars assigned to

berry shippers selected at random to determine the extent of empty haul by the Frisco and the number of car days empty and loaded on the Frisco. This check developed that there was a total of 14,272 empty car miles, 405 car days empty, and 12,848 loaded car miles, and 53 car days loaded. We performed 1,424 miles excess empty haul and had the 50 cars empty on hand awaiting a load a total of 397 days on which we paid on the basis of $2.00 per day. The details are shown on pages 172 and 173 (Tr. 5493-5494).

On Cantaloupes the records on 10 cars were examined. They showed an empty car mileage of 3,594 miles and a loaded car mileage of 2,968 miles, empty car days awaiting load 150 car days; loaded 18. The expense as a result of the days on hand empty were very heavy considering a penalty of $2.00 per day. The details are shown on page 176. Potatoes produced on the Frisco are loaded in stock cars which must be cleaned and at the expense of the Frisco. There is also a long empty car haul and heavy detention. On page 175 the details of a check of ten cars is shown. Under the movement of car S. F. 47994 which was moved 937 miles empty, was retained on the Frisco 42 days before being loaded. Watermelons are loaded in stock cars which must be cleaned up and at the expense of the Frisco. The empty car detention is not as heavy as on potatoes. Note the detailed record on ten cars as shown on page 174 (Tr. 5494-9495).

[fol. 1111] The empty car mileage on strawberries and on cantaloupes is much greater than the loaded car mileage. Cantaloupes used M. D. T. equipment the same as peaches and strawberries. The same is true of early fall apples. I haven't figured out any percentage figures as to the proportion of this traffic that we originate and the expenses that we have enumerated which goes to Western Trunk Lines (Tr. 5495).

The year 1924 statistics show a very heavy movement of strawberries. That movement was into Western Trunk Line Territory to points like Chicago, the Twin Cities, Des Moines and so forth. I haven't any percentage figures I would like to submit. There is a heavy movement of zinc ore and concentrates from the Joplin, Mo. Pitcher, Okla., District to the Illinois smelters. On page 177 is shown a history of the rates and divisions on January 1, 1900, the

rate from the *H*oplin district to East St. Louis was 11½ cents. The Pitcher district at that time was not in existence as an ore producer. A rate of 14 cents was established on January 1, 1900 to Dupo, LaSalle and Peoria, Ill., based 2½ cents over the rate to East St. Louis. As the result of the C. B. & Q. agreeing to accept north of East St. Louis a division of 5 cents. The Frisco received 9 cents Joplin District to East St. Louis, average haul 351 miles, the present rate is 19 cents. The lines north of East St. Louis receive 6.3, the Frisco 12.7. Joint rates from points on the Miami Mineral Belt and Northeastern Oklahoma Railroads, which are short lines serving the Pitcher, Okla., field, are based 2½ cents over the rates from the Joplin District of 19 cents, making a rate of 21½ cents. This rate divides by allowing the short lines 5 cents beyond East St. Louis, 6.3 Frisco, the balance 10.2, out of which is paid the Mississippi River Transfer of 1.8 cents (Tr. 5495-5496).

[fol. 1112] The decrease in the Mississippi River bridge charge was brought about by the ten percent reduction. Rate of 17 cents from the Joplin District and 19½ from points on the short line to Danville, Ill., divides by allowing the C. & E. I. 5½ cents and the Frisco 11½; from the short line the C. & E. I. receives 5½ cents and the Frisco 9 and the M. M. B. or N. G. O. 5 cents; in either case, the Frisco pays the Mississippi River bridge transfer of 1.8. When we took off the 5½ cent increase the bridge charge was not reduced at the same time. It remained constant (Tr. 5497).

The division for the C. & E. I. above referred to was agreed to with that line in conference at the time the rate was established. The rates applicable to East St. Louis were extended to apply to Hillsboro, Ill., on July, 1913, and the C. & E. I. accepting a division of 2½ cents per hundred. The present rate is 15½ cents from Joplin District which divides C. & E. I. 3.1, Bridge Transfer 1.8, Frisco 10.6. From points on the short lines mentioned the present rate is 18 cents which divides by allowing the short lines 5, C. & E. I. 3.1, Frisco 8.1. Chicago rates and divisions are self explanatory as shown on page 177. The Northern Lines proportions were agreed to at the time the joint rates

were established and the level of the through rate was influenced by the proportion desired by our northern connections. Destination lines wanted these low rates established to their smelters in Illinois so they might be placed in competition with smelters in C. F. A. Territory as well as the smelters located in the Southwest. The Illinois Lines were in position to and do haul the outbound product from the Illinois smelters. The divisions shown as applicable via Kansas City were established several years later and were agreed to by the lines east of Kansas City, who were [fol. 1113] anxious to participate in the handling of the traffic via the Kansas City gateway in competition with other competitors via East St. Louis (Tr. 5497-5498).

On page 178 is shown the average ton mile earnings by route covering the movement from points on the N. E. & O. and the M. M. B. for the period November 1923 to October 1924 inclusive. These figures are based on Witness Sewell's Exhibit No. 99 corrected, introduced in Docket 16236 and 16238. The lines west of East St. Louis earn less than 4 mills per ton mile on this traffic to Danville and to LaSalle via the route that is indicated. The ore traffic is expensive to originate. The life of ore fields is difficult to determine. The Joplin District is not now a heavy producer. These are the present rates. Page 178 shows the weighted average return on a movement that the rates have not changed subsequent to the date of that movement. These are the rates from the short lines. It is those ton mile earnings of 3 mills and so forth to Danville and LaSalle that the Examiner has proposed to reduce. I don't think that these earnings of 3 and 4 mills per ton mile are enough. In my opinion they are not enough no matter what we are hauling (Tr. 5498-5499).

The Frisco during the past 25 years has spent large sums in the Joplin District for the construction of track for ore loading. A large number of these tracks were subsequently taken up. On pages 182 to 186 inclusive I have listed specific cases, the total mileage abandoned and taken up was 34.76 miles. The Frisco production at present is from points on the Miami Mineral Belt and the Northeastern Oklahoma Railroad. The Frisco connects with the former at Quapaw and Baxter Springs, Kans., and with

the latter at Miami, Oklahoma, and Columbus, Kansas. The M. K. T. connecting with the N. E. O. at Columbus, Kansas. To supply these connections with equipment the Frisco hauls empty cars from a minimum of 400 to a maxi- [fol. 1114] mum of 407 miles. The average on 100 cars delivered to the N. E. O. was 142.37 miles. Details are shown on page 188. While to points on the Miami Mineral Belt the average empty haul on the Frisco was 102.76 miles; details shown on page 191. The time consumed on the short line loading of the empty car and return load to the Frisco was 3.53 and 3.05 days respectively. The short line must equip the cars with grain doors which is expensive. Similar data covering empty cars delivered the N. E. O. by the M. K. T. is shown on page 194. This date was taken from an exhibit submitted in Docket 16236 and 16238, Witness Stanage, Exhibit 62, and the Witness Allen's Exhibit 92 (Tr. 5499-5500).

I am attempting to show the Commission the expense and trouble that is incident to originating this traffic from the Southwest that moves to Western Trunk Lines. It is very expensive to originate because of the different features I have detailed. On the zincs via the short lines we have to furnish the cars because they have no equipment. The allowance to the short lines as shown on page 177 comes out of our proportion. I mean by that none of the allowance is received or has in the past been received from the Western Trunk Lines. The increase in 1923 that we allowed to the short lines was because of the similar allowance, that is the present division by another gateway, Columbus, Kansas. In other words the Northeast Oklahoma extended its rails to Columbus, Kansas, in connection with the M. K. T. and the M. K. T. previous to that time has received the ore in connection with the Kansas Oklahoma & Gulf and they had to pay to get it to their rails a division of 4.9, so when the short line extended its line to a connection with the M. K. T. at Columbus, the M. K. T. gave the short line direct 5 cents per 100 pounds. The [fol. 1115] action of the M. K. T. compelled us to give the short lines 5 cents if we wanted to get the traffic (Tr. 5500-5501).

On canned goods from Iowa producing points to points in Southwestern Missouri the Western Trunk Lines receive

a reasonable division for their service to Kansas City. On pages 195 to 198 inclusive are shown present rates and divisions on canned goods carload from representative points in Iowa to points in Southwest Missouri. For example the through rate from Marshalltown, Iowa, to Joplin is 43 cents. It divides 22.3 to Kansas City, distance 278 miles, beyond Kansas City 20.2, distance 162 miles. The local rate Marshalltown, Iowa, to Kansas City is 32 cents, C. G. W. I. C. C. 5172. The local rate Kansas City to Joplin 27½ cents. On a rate pro-rate the 43 cent rate would divide 53.7 per cent north of Kansas City or 23 cents; south of Kansas City 20 cents. From all Iowa canning points on the C. R. I. & P. there is a rate of 25½ cents per hundred to Kansas City as published in C. R. I. & P., I. C. C. 11426. From Grinnell, Iowa, to Springfield, Mo., the rate on canned goods carload is 36 cents and divides via Kansas City by allowing lines north 50 per cent or 18 cents. Local rate Grinnell, Iowa, to Kansas City 328 miles, is 32 cents; C. R. I. & P., I. C. C. 11426. Rate Kansas City to Springfield 27½ cents, distance 191 miles. Applying rate prorate the lines north of Kansas City would earn 53.7 per cent or 19.3; south of Kansas City 16.7; to points south of Springfield, Mo., such as West Plains, Mo., the through rates are based on a differential of 11½ cents higher than the rate to Springfield, Mo. The difference in the rates Kansas City to West Plains over Kansas City to Springfield rates is 14 cents. In division of these joint rates the lines north of Kansas City received the Springfield, Mo., revenue. The Western Trunk Lines on northbound traffic to points taking a differential [fol. 1116] over the Chicago rate restrict the lines south of Kansas City to Chicago revenue (Tr. 5501-5502).

Page 199 shows present rates and divisions on cement plaster carloads from Acme, Texas, to Western Trunk Line Territory. Rates on cement plaster from Acme, Texas, to Western Trunk Line Territory were first established August 19, 1898 on same basis that was in effect from Quanah, Texas, as per Supplement 1 to Agent Leland's I. C. C. 79. On December 23, 1913 Supplement & Leland's I. C. C. 1997, the through rate of 23 cents Acme, Texas, to Chicago was cancelled and in lieu thereof the East St. Louis combination of 20 cents per 100 was established based 15 cents Acme,

Texas, to East St. Louis, minimum 60,000 pounds, plus 5 cents East St. Louis to Chicago, Minimum 40,000 pounds, the latter rate being published in Wabash I. C. C. No. 3070. This rate divided as based, namely the carriers to East St. Louis 15 cents and the line north their local of 5 cents. Effective October 25, 1916, in Supplement 4 Leland's I. C. C. 1146, the rate to Chicago was increased 5 per cent, making the rate East St. Louis to Chicago 5.3 and accordingly the combination rate published by Agent Leland was advanced from 20 to 20.3 and the lines north allowed three tenths of a cent increase. Effective November 25, 1919, Leland's Tariff 1324 the rate beyond East St. Louis was increased from 5.3 to 5.5. Agent Leland accordingly revised the combination rate to 20.5 the lines north of East St. Louis being allowed in division 5.5; in other words the factor they contributed in constructing the through rate (Tr. 5503).

Effective August 26, 1920, the rate was advanced 35 per cent and on July 1, 1922, reduced 10 per cent, so that today the rate is 27½ cents, based 20.5 minimum 60,000 pounds Acme, Texas, to East St. Louis plus 7 cents minimum 40,000 pounds beyond. The Southwestern carriers are earning less [fol. 1117] than 5 mills per ton mile to East St. Louis. The low rate has something to do with it. Our division is low too. I should say the average loading would run about 35 tons. The present rates and divisions are shown on page 199 which shows that the lines north of East St. Louis receive 7.2 although the factor they contributed in constructing the 27½ cent rate was only 7 cents. That difference comes about because of the disposition of fractions (Tr. 5504).

The rate was constructed by compounding the two factors and then is divided as made. Well then the subsequent advances and reductions advancing the divisions along with the rates, the disposition of fractions, threw two tenths of a cent more to the northern factor than on the southern factor. As the division now stands it is practically a rate prorate. It moves quite heavily. On page 200 is my information dealing with rates from Southerd and Eldorado, Okla. which are cement plaster producing points. The

same information suffices for this exhibit. I want to make one correction: Under Present Divisions shown at the right of the sheet, under St. L. S. F. Railway, the very first item to the right of 589 miles, the division for the Frisco, is shown as 17 cents. That should read 16.7, and the earnings per ton per mile should read .0057. The rate from Southerd and El Dorado are made with relation to the rates from Acme, Texas. The rates, however, from Southerd and Eldorado are not uniform via all of the Western Trunk Line routes due in part to the fourth section feature not having been checked out, some of the lines do not meet the going basis (Tr. 5505).

On page 201 is shown the present rates and divisions on lime, carloads, from Springdale, Mo., which is representative of our Southwestern Missouri lime shipping points and Johnsons, Ark., a representative Arkansas lime shipping point. Other lime kilns are located on the Missouri Pacific [fol. 1118] also in the district at Springdale and at Ruddles and Limedale, Ark. The joint rates are published in individual issues of the Southwestern Lines and were established a great many years ago to enable the line producers in the Southwest to reach the northern market in competition with the producers in Western Trunk Line Territory located at Hannibal, Mo. and other points. The question of divisions via Kansas City was before the Western Trunk Lines during 1916 and effective June 1, 1916, Agent Boyd incorporated in his division sheet 315-A Supplement 51 a proportional of 6 cents to lines south of Kansas City on lime from Missouri kilns and 8 cents south of Kansas City when from Arkansas kilns; these figures gave the result of an agreement between interested connections. This resulted in an advance in proportions to the lines north of Kansas City as the Frisco at that time earned from Springfield to Kansas City 8 cents west of Chicago; 6.8 to Peoria and Springfield, Ill.; and 9 cents to St. Paul. The distance Springfield, Mo. to Kansas City 191 miles and from Johnsons, Ark. 266 miles; a manimum car of 15 tons, the minimum being 30,000 pounds, yields the Frisco $18.00 and $24.00 per car respectively (Tr. 5505-5506).

The rates subsequently established have taken into account the above proportions for the Southwestern Lines.

The balance accrues north or east of Kansas City. The subdivisions shown on page 201 reflect the various rate changes effective since 1916. On page 202 have shown the present rates and divisions on lime from St. Genevieve and Mosher, Mo., to Illinois and Iowa points. The rates are made with relation to the rates as published from Hannibal, Mo., a competing lime shipping point. From Illinois points the Commission approved a differential of 1 cent over Hannibal. Lower rates were necessary. Otherwise Missouri [fol. 1119] producers could not reach the northern market in competition. The first divisions were worked out in conference with our northern connections. On Chicago traffic, for example, the Frisco earned 3.3 or $9.90 per car for a 66 mile haul from St. Genevieve, Mo. to St. Louis while on traffic from Mosher, Mo. it earned $7.20 per car. The Western Trunk Lines have not heretofore consented for the application of a mileage prorate in subdividing joint rates with the Southwestern Lines. During 1925 the Divisions Committee of the Southwestern Lines established numerous divisions with the Western Trunk Lines, none of which were on a mileage prorate basis. For example on fresh meat West Fargo, North Dakota, to Oklahoma City a rate of $1.22 was divided 63 cents for the lines south of Kansas City and 59 cents for the lines north of Kansas City. Based on application of a mileage prorate the lines south of Kansas City would have earned 30½ per cent or 37.2 cents. The northern lines agreed to allow them 51.6 per cent or 63 cents, or 170 per cent of a mileage prorate (Tr. 5506-5507).

Other examples are shown in detail 203. The Southwestern Lines do not in subdividing the joint proportions north of Southwestern Junctions among themselves observe mileage prorate basis. Note examples shown on page 204. For instance, second item, covering car of staves Truman, Ark. to Dyersville, Iowa, via Frisco to St. Louis, Wabash to Des Moines, C. G. W. to destination. The revenue north of St. Louis was divided 50 per cent Wabash, 50 per cent C. G. W. A mileage prorate would allow the Wabash 66 per cent and the C. G. W. 34 per cent. Other illustrations are shown on this sheet. I do not know whether it is correct as I suggested that fifty fifty division of the reve-

nue north and to Dyersville is applicable to an entire destination group that extends as far up north as Minneapolis. I have not looked into that feature. I merely showed that [fol. 1120] actually applies. It is possible that if I had taken a shipment to Minneapolis I might have had a different situation (Tr. 5508).

Witness Buhrle on Exhibit A-60 showed a recapitulation of carload freight via East St. Louis for the month of June, 1924. I had this data reworked showing the recapitulation of carload freight moving via East St. Louis for the month of June, 1924. I have shown separately a deduction via the Mississippi River bridge transfer out of the revenue shown as allowed south of East St. Louis, Illinois. On through carload freight we used an average bridge transfer charge of 2.2 account statements not indicating commodities. The transfer varies according to each commodity. 2.2 is a reprsentative average. Note the revenue per ton mile south of East St. Louis of 9.6 versus 8.89 mills north compares with 10.5 mills south shown on Witness Buhrle's Exhibit A-60. The deduction for the Mississippi River bridge toll comes out of the Southwestern revenue. I haven't attempted, however, to make any deduction for absorptions north. I don't know of any bridge tolls the Western Trunk Lines pay on this traffic at St. Louis. I don't think the switching absorptions at Chicago and things of that sort are competent (Tr. 5508-5509-5510).

On page 206 of Witness Stange's Exhibit A-199 is shown a recapitulation for the month of October, 1924, on traffic handled by the Frisco, showing tons, tons one mile, revenue in dollars, average haul, average revenue per ton for Western Trunk Lines, also average revenue for the Frisco after deducting actual Mississippi River transfer charges paid by the Frisco. It shows that on southbound traffic via East St. Louis the Western Trunk Lines ran north of East St. Louis 10.5 mills, while the Frisco earned south of St. Louis 13.21 mills. On northbound traffic other than lumber from off short line connections or non-respondent, lines, the *the* [fol. 1121] Western Trunk Lines earned north of East St. Louis 8.55 mills while the Frisco earned 8.66 mills. On lumber off short line connections the Western Trunk Lines earned from East St. Louis 8.88 mills while the Frisco earned 6.77 mills. The northbound lumber from non-respondent lines the Western Trunk Lines earned north of

East St. Louis 8.35 and the Frisco earned 5.51 mills. The Frisco was an intermediate carrier (Tr. 5511).

On lumber from points on the Rock Island which the Frisco handled from Bridge Junction, Arkansas, opposite Memphis, Tennessee, to East St. Louis, the Western Trunk Lines earned north 9.79 mills while the Frisco earned 6.13 mills. On all traffic handled by the Frisco to the St. Louis Gateway for October, 1924, northbound and southbound except lumber from off the C., R. I. & P., the Western Trunk Lines earned 9.07 mills, the Frisco earned 10.49 mills. That includes traffic to and from Oklahoma. That is all the traffic we handle. Most of the traffic handled by the Frisco to and from Oklahoma moves through the East St. Louis, Illinois, gateway. I have shown here the net revenue of the Frisco and the gross revenue north. We showed the revnue the Frisco earned minus the Mississippi River Bridge tolls St. Louis-East St. Louis for the Frisco and then the revenue for the Western Trunk Lines is the gross amount they earned north of St. Louis. In the case of lumber off our tap line I have shown the Frisco earnings only and in case of lumber from non-respondent lines I have shown the gross amount and gotten our ton mile earnings by figuring that amount (Tr. 5512-5513).

Page 207 is a statement showing the division sheets issued by the Frisco which are currently in effect. Witness Buhrle in Exhibit A-8 listed the division sheets claimed to be in effect by Western Trunk Lines. We checked over the [fol. 1122] list of those and this is a correction of data which he has listed. In other words we have shown on this page the current sheet of the respective division sheets. We also want to place in the Commission's files a copy of the current issues. In other words I am bringing up to date the data furnished by Witness Buhrle. For example the very first item he showed division basis 713-A as being in effect, the current issue is 713-B. I am introducing a copy of all of the missing sheets to complete the record. With these additions the record in that respect will be complete (Tr. 5513).

On pages 208 and 209 are shown the list of cities of over ten thousand inhabitants along the Frisco in Arkansas, Oklahoma and Missouri together with similar information as to the cities on the Wabash, C. & A., C. G. W., C., M. & St. P. in the States of Missouri, Illinois, Iowa, Minnesota

and Wisconsin. The methods used in constructing joint through rates on outbound commodities which I have described are still being employed. I could detail into the record numerous instances but I have in a general way described the basis and covered the principal moving commodities. It costs more to originate traffic than it does to deliver traffic. The initial carrier must provide the necessary equipment. In a great many cases the equipment must be hauled empty a long distance. The initial carrier must where necessary prepare the equipment for the character of the load. By that I refer to the bedding of livestock cars, the repairing of box cars for grain loading, where they need some minor repairs, also furnishing of grain doors. The initial carrier must also assume the per diem expense when the cars are on hand awaiting loading. The latter is especially true of the movement of roofing commodities such as lumber, cement, plaster, drains, et cetera. For example in the current season we must accumulate a great quantity of cars to take care of the prospective move-[fol. 1123] ment and while those are on hand we must pay the per diem expense (Tr. 5514).

In handling or originating oil we have to provide expensive storage facilities, empty tank cars. As the tank cars are required by the refineries it is necessary for the initial line to switch them out as desired. By that I mean when they reach the refinery they are placed on the loading track but when the refinery is ready to load a car they specify the particular car desired. For instance they need a clean car for gasoline, what they term a dirty car for crude or fuel oil. Then they also have special tank cars with special insulation for very volatile oils such as casing head gasoline, naptha and so forth, depending upon the gravity, and the cars of that kind must when desired be switched out. The initial line is also put to the expense of weighing the traffic. In originating certain classes of traffic the initial carrier has additional expense incident to the movement of the inbound material; I refer to the concentration of eggs, live poultry, dressed poultry et cetera. The carrier originating this traffic will haul in twenty or more lots of eggs or poultry inbound to one car outbound, refunding the charges on the inbound movement down to a net basis upon consideration of delivery to it of an outbound carload movement. That expense all rests with the initial carrier. In other

words the refunds I mentioned are not participated in by the connections of the individual lines. I am speaking now of all lines in the Southwest (Tr. 5515).

There is also great expense in connection with the originating of forest products traffic. I refer to the movement into the sawmill of logs on low inbound rates. It takes from four to six cars of logs inbound to one car of manufactured [fol. 1124] product outbound and all the Southwestern Lines have in effect very low rates for the inbound movement of this raw material. There is another feature which the Commission should take into consideration in connection with the question of division and that is the element of competition. Especially is that true between large cities where a great many carriers converge, the rails of a great many carriers converge and where there is a large and constant volume of traffic received from connecting lines, particularly in train load quantities. We have that condition between Kansas City and Chicago, and between East St. Louis and Chicago. It also exists at numerous points in the Southwest. For example the traffic between Memphis and New Orleans where there are a great many routes. There is also the question of competition between gateways, that is the Frisco in originating traffic in the territory west of Springfield has the choice of either the Kansas City gateway or the East St. Louis gateway, the latter giving it the longest haul. On traffic originating in southeast Missouri or northeastern Arkansas, the Frisco has the choice of either the Kansas City gateway, the Thebes gateway or the East St. Louis gateway. And then there is a possibility of using the Memphis gateway and the route via St. Genevieve, Missouri, in connection with the Missouri and Illinois (Tr. 5516).

The competition between gateways is necessarily very keen. We have one important situation in the Southwest, for example, on the traffic moving to New Orleans we have the choice of the routes via Memphis in connection with the Illinois Central or through New Albany, Mississippi, and the G. N. & N., or Tupelo, Miss., and the G. M. & O. and those three routes are in competition with the routes to New Orleans via Texas junctions with such lines as the T. & P. and the Southern Pacific; also the route [fol. 1125] of the Frisco through Hope, Arkansas, in connection with the L. & A. and the Missouri Pacific

on New Orleans traffic. The Frisco in handling traffic from Arkansas points on the Rock Island with whom it connects at Bridge Junction, Ark., opposite Memphis has to meet the competition of the Illinois Central via Memphis, the latter being in position to handle the traffic north from Memphis to Illinois points and beyond. The Frisco in meeting this competition had to arrange satisfactory divisions with its connections either via Thebes or East St. Louis. Now this competition that I have detailed is representing the situation throughout the entire Southwest which must be taken into consideration in fixing the divisions (Tr. 5517).

Considering the entire Southwest the traffic is heavier northbound from 4 to 7 to 1. The northbound traffic would be originated by the Southwestern lines. Via the Frisco just a very small amount of transcontinental traffic passes through the Southwest. We participate to only a nominal degree in transcontinental traffic moving through our territory (Tr. 5517-5518).

I am reading from page 10 of the 19th annual report of the C. & A. Railroad to its stockholders for the year ending December 31, 1924. "The unfavorable results of 1924 in operation of your property are almost wholly due to the conditions prevailing in the coal industry." I am reading from the annual report of the Minneapolis & St. Louis Railroad Company to its stockholders for the year ending December 31, 1924: "The year 1924 was a year of business depression in the territory served by the Minneapolis & St. Louis Railroad Company and in addition to the decreased tonnage resulting from this general condition, the corn crop in the entire territory was very much below normal both in [fol. 1126] quantity and quality, which also had an adverse effect upon the revenue tonnage" (Tr. 5518).

The traffic handled by the Western Trunk Lines generally originates or terminates on the carrier hauling the traffic to or from the point of interchange with the Southwestern Lines. The proportion of their joint hauls to their single line hauls is very small. The opposite is true of the Southwestern Lines. A very large proportion of their joint traffic originates or terminates on lines which do not serve the committee gateways such as Kansas City, East St. Louis or Thebes. With the Frisco this class of traffic is substantial. In other words in handling business for the

Western Trunk Line Territory, the St. Paul for instance will originate the traffic and handle it to Kansas City and deliver it to the Frisco. Other than the traffic destined to Frisco points will find a destination on the rails of our connections and to reach some of them we have to use two intermediate lines (Tr. 5519).

There is a very substantial portion of the traffic in connection with which the divisions south of the gateway are divided *are divided* frequently between two groups of carriers because of the feature I have mentioned and the fact that there are a greater number of lines in the Southwest than there are in Western Trunk Line Territory and there is such a large proportion of the lines in the Southwestern Territory which do not reach the committee gateways with their own rails. That is a very important fact because it is more expensive to handle traffic over two or three lines from a given point of origin to an interchange point such as Kansas City than for one line to handle that traffic (Tr. 5519-5520).

The great bulk of the traffic we give to the Western Trunk Lines finds destination on the line to whom we deliver the freight at a point like Kansas City. The traffic we handle [fol. 1127] is divided into two classes, traffic we terminate and traffic we deliver to a connection for destination on that line or on a connecting line beyond the line to whom we deliver the traffic, and of the total traffic we handle, the connecting line traffic runs to a very substantial portion. As to that traffic the Frisco serves merely as an intermediate carrier whereas the Western Trunk Lines either originate or deliver the traffic (Tr. 5520).

I don't know what Mr. Dana had in mind when he said after we reach 250 miles there is no difference in the cost of handling traffic. He was dealing with hauls via one line and I am dealing with hauls via two lines (Tr. 5521).

Cross-examination:

I don't know what proportion of the Alton tonnage in 1924 was coal. It was a substantial proportion but I don't know the volume. The Frisco Railroad does not have any rails to Thebes, Ill. It ends at Chaffee. The Frisco joins in through rates Thebes to Chicago, I am pretty sure. I mean by that that some of the carriers are commodity car-

riers and the Frisco is shown as a participating carrier but not in the case of the C. & E. I. (Tr. 5521).

In the instance where the Frisco hauls the traffic to St. Louis and allows the line north of East St. Louis 65 per cent of the rate from Thebes, the Frisco is retaining 35 per cent of the Thebes rate. We are receiving south of East St. Louis for our haul via St. Louis to Southeast Missouri, the identical revenue which the line delivering this traffic to us allows to our competitors the Cotton Belt and the Missouri Pacific. It is true that the Frisco having no rails to Thebes secures 35 per cent west of East St. Louis on the Thebes rate. Of course the traffic in that event don't move through Thebes. We will receive the traffic at East St. Louis in competition with the Cotton Belt and the Missouri [fol. 1128] Pacific and handle it to destination via St. Louis through Chaffee. Our mileage from St. Louis to Chaffee is 144 miles (Tr. 5522).

Attorney Towner here questioned the correctness of the Witness' Statement concerning the case which he had said was a division case between the Frisco and the C. & E. I., saying that the case did not cover the question in divisions at all, but later withdrew the question and let the statement of the witness stand (Tr. 5523).

As to the existence of an agreement between the Frisco and the Western Trunk Lines with respect to the divisions on Southeastern Missouri traffic the basis currently in effect has been in effect ever since joint rates were established in 1909 and I don't know that I could refer you to any written agreement but we merely divide the rates as based and except for the Ex Parte 74 advance of the proportional rate from Chicago to Thebes 40 per cent, while the factor remains on the basis of the 35 per cent increase over the August 25, 1920, figure, the situation would be the same today as it was on August 25, 1920. I mean by that that at that time we used as a division sheet the tariff which named the proportional rates from Chicago to Thebes, Agent Boyd's 506 Series. Now that sheet today because of carrying the 40 per cent increase instead of 35 makes it necessary for us to use the former sheet. In other words the tariff uses as a division sheet the tariff which is not now in effect. There has been discussion with reference to putting divisions in a division sheet so it will be fully understood by all concerned

and we won't have to use this old tariff by Agent Boyd, effective August 25, 1920 increased 35 per cent (Tr. 5523-5524).

R. C. TROVILLION was thereupon called as a witness and testified as follows:

[fol. 1129] Direct examination:

I am General Freight Agent of the M. K. T. Railroad Company and my headquarters are at St. Louis. I have had some sixteen years experience with the M. K. T. in various capacities in the Traffic Department. I have made an investigation of the divisions in controversy in this case so far as the M. K. T. Lines are concerned and in part in connection with the general situation existing in the Southwest. I consider that I am thoroughly familiar with the issues involved (Tr. 5524-5525).

In considering divisions between Oklahoma and Texas on the one hand and Western Trunk Line Territory on the other there are several subjects of special interest and importance which present themselves for consideration and analysis. First is the doubtful value of rate prorate and mileage prorate in determining the proper divisions especially on traffic via Missouri River Crossings. Many commodities that move on comparatively low rates in the Southwest move on fourth class rates in Western Trunk Line Territory. So that comparisons based on the locals to and from the Missouri River in many instances have little value. The second is that the preponderance of the carload traffic is northbound. The third is that the movement of merchandise as less carload freight is almost entirely southbound and represents a good percentage of the business that divides on merchandise per cent. The handling of this traffic in solid cars by the originating lines and the necessity for the traffic to be distributed and redistributed by the lines serving the Southwest presents another reason why hard and fast rules of distance and rate prorates are not proper for fixing divisions on such traffic. The fourth is the consideration of the amount of business which originates or is destined beyond such lines as the M. [fol. 1130] K. T., Kansas City Southern and Frisco in Oklahoma and Texas and the earnings of the M. K. T., K. C. S.

or Frisco as pass over lines. The fifth is consideration of the very substantial amount of traffic delivered to and received from connections in Kansas City which originates or is destined C. F. A. and Trunk Line Territory, on which the Western Trunk Lines compile their revenue on this overhead traffic (Tr. 5525-5526).

My testimony has been divided as nearly as possible so as to separate Oklahoma from Texas although the two are very closely related as regards moving commodities and general conditions. The Oklahoma feature of the case presents a somewhat different situation and we think it important to explain our position as to those divisions. Following several conferences with the Western Trunk Lines as to divisions in the Southwest at which conferences no definite proposal was submitted by those lines, announcement was made by the Western Trunk Lines that effective July 1, 1925, the Santa Fe and Rock Island had agreed that on business to and from Oklahoma then dividing on merchandise per cent through Kansas City to and from St. Louis, Peoria and Chicago, an increase of 14 cents in those divisions would be accorded. The Missouri Pacific later agreed to the same increases. The two Oklahoma Lines that did at that time agree to it have their own rails between Kansas City and Chicago and it will be readily seen that their position was entirely different from lines terminating at the Missouri River such as the Katy, Frisco and K. C. S. While the Santa Fe and Rock Island might turn over a certain amount of business at Kansas City to the C., M. & St. P., C. G. W., C. & A., Wabash or C., B. & Q. and accord them the increase east of the River, the deliveries of the Katy, Frisco and K. C. A. to the Santa Fe and Rock Island [fol. 1131] at Kansas City are very heavy. Upon this traffic interchanged between the M. K. T., Frisco and K. C. S. and the Santa Fe and Rock Island in both directions, the latter two roads would be enabled in part at least to recoup their loss on traffic interchanged at this gateway with other Western Trunk Lines. It is obvious however, that no such result would follow as to the M. K. T., Frisco and K. C. S. since their rails terminate at Kansas City. The particularly unsatisfactory feature of the Oklahoma compromise was that it dealt only with merchandise per cent upon which basis the majority of the southbound business is divided (Tr. 5526-5527).

It did not deal with the special divisions on petroleum oil, cottonseed cake, grain, livestock, et cetera, which moves northbound. In other words the originating lines proposed to increase their revenue on southbound business but were careful to propose no increase to the originating lines on traffic from the Southwest and destined north. This business which I shall show, constitutes by far the greater volume of the traffic interchanged. Moreover the 14 per cent increase agreed to by the Santa Fe, Rock Island and the Missouri Pacific only covered the traffic originating at or destined to points on their rails in Oklahoma while this proceeding involves all traffic and all divisions. There is a heavy movement of oil and other commodities originating on short line connections in the Southwest (Tr. 5527-5528).

The statement afterward described by the witness was thereupon offered in evidence as Exhibit A-201.

(The statement was received in evidence as Exhibit A-201.)

[fol. 1132] This exhibit shows deliveries of carload traffic in Kansas City and St. Louis by the M. K. T. for the years 1923, 1924 and for the first eleven months of 1925, also receipts from such lines. Page 1 shows deliveries and receipts at Kansas City and page 2 at St. Louis. It shows that the deliveries were in the ratio of approximately 3 to 1 at Kansas City and approximately 2 to 1 at St. Louis with the I. C. and C. & E. I. It is offered to indicate that the preponderance of the traffic is northbound and with the thought in mind that proper weight should be given to the fact that deliveries of the Southwestern Lines to the Western Trunk Lines far exceed the deliveries in the reverse direction. The figures were taken from the actual interchange report prepared by our agents at Kansas City and St. Louis. The totals are not shown on the exhibit but a computation from page 1 shows total deliveries for 1924 of 47,662 cars as compared with the receipts of 16,534 cars. For the eleven months of 1925 shown, deliveries 44,545, receipts 16,734. The receipts from the Santa Fe at Kansas City for 1925 are explained by the fact that we received from that line a substantial volume of oil secured on our solicitation and moving from refineries on their line in Kansas and Oklahoma handling business between Kansas City and St. Louis (Tr. 5528-5529).

A statement afterward described by the witness was thereupon offered in evidence as Exhibit A-202.

(The statement was received in evidence as Exhibit A-202.)

[fol. 1133] The Witness: This eight page exhibit shows the movement of various commodities for the first six months of 1925 delivered by the M. K. T. to Western Trunk Line connections at Kansas City separating Texas and Oklahoma and other on the one hand, and the Western Trunk Lines and other than Western Trunk Line on the other hand. Receipts are also shown in a similar manner. Page 1 shows deliveries to and receipts from the Santa Fe, page 2 C. & A, page 3 C. B. & Q., page 4 C. G. W., page 5 C. M. & St. P., page 6 C. R. I. & P., page 7 Wabash. Page 8 is a grand recapitulation carried forward from the bottom of each page as the arrangement of the separate pages covering the recapitulation is not clear. The statement was taken from the actual interchange records of the Agent at Kansas City. This will give the Examiner an idea of the traffic which is moving and the volume of the oil and other traffic upon which we desire increased divisions. The recapitulation shows that out of a total of $21,963 cars delivered to the Western Trunk Lines at Kansas City, 14,016 cars or about two-thirds went to Western Trunk Line Territory indicating the importance of our Western Trunk Line business. It further shows total deliveries to us by the Western Trunk Lines of 7,574 cars, a ratio of almost exactly three to one in our favor. The statement also shows that approximately half of the business delivered to us by the Western Trunk Lines originates in Western Trunk Line Territory indicating further that there is a heavy overhead movement from the east which moves from Chicago and Chicago junctions handled to Kansas City for delivery to us. It shows especially that the M. K. T. delivered for this six months period destined Western Trunk Line Territory 567 cars of oil from Texas points and 7,507 cars of oil from Oklahoma points, a total of 8,074 cars (Tr. 5529-5530).

[fol. 1134] It also shows the large movement of packing house products and fresh meat moving to other than Western Trunk Line Territory from Oklahoma and Texas deliv-

ered to the C. & A. indicating that about 30 per cent of this traffic is destined to eastern points. There is also shown a substantial movement of petroleum oils to point beyond Western Trunk Line Territory, a good portion of which went east of the Indiana-Illinois state line, to which destination the lines between Kansas City and Chicago or interior Illinois junctions generally receive more than when destined to Chicago or Chicago rate points. The total fresh meat, products destined Western Trunk Line Territory was 9,685 cars, 8,074 cars of oil and 1,611 cars of meat, or 69 per cent of the totals of everything. The statement also shows that from Oklahoma to Western Trunk Line Territory for this six months period we delivered the seven Western Trunk Lines shown 7,507 of petroleum and its products out of a total of 8,460 cars of all traffic. In other words 88.6 per cent of our traffic originated in Oklahoma and destined to Western Trunk Lines consisted of oil. The Texas oil was 567 cars out of a total of 3547 cars destined Western Trunk Line Territory, or 16 per cent. Of the deliveries to us at Kansas City from Western Trunk Lines out of 7774 cars a total of 3712 or almost exactly 50 per cent originated in Western Trunk Line Territory. Of the remaining 50 per cent a substantial portion originated east of Chicago where the lines to Kansas City performed over half the service (Tr. 5530-5531).

The statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-203.

(The statement referred to was received in evidence as Exhibit A-203.)

[fol. 1135] The Witness: This is a three page exhibit, the first page of which shows the total number of merchandise cars operated out of St. Louis by months for the first eleven months of 1925 and 1924. At the time the statement was made, December, 1925, was not available so that December, 1924, was also omitted. The second page shows similar information to Kansas City and on page 3 is shown the Kansas City refrigerators operated. The flow of merchandise is southbound and the most expensive part of the handling falls on us. Therefore the manner of handling alone does not justify divisions fixed by hard and fast rules of rate prorate, mileage prorate and so forth. Cars move

solid from Chicago, Milwaukee, etc. to Kansas City and St. Louis and in numerous instances the entire car is delivered to us at Kansas City or St. Louis for handling and assembling over our platform. We operate 46 daily scheduled cars out of St. Louis and 36 from Kansas City as well as 8 additional scheduled refrigerator cars out of Kansas City (Tr. 5532).

I have made no investigation of the cost of the Western Trunk Line in gathering the traffic involved, handling it through their freight houses and taking car- of absorptions in towns like Chicago and Milwaukee. A refrigerator car carried a large amount of business received from connections such as cheese from Wisconsin, etc. We have only two scheduled merchandise cars that run through from their points to points on our line and of course these break bulk and are rehandled on our lines (Tr. 5533).

The statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-204.

(The statement referred to was received in evidence as Exhibit A-204.)

[fol. 1136] The Witness: This exhibit shows merchandise delivered to us by the various Western Trunk Lines at Kansas City and St. Louis. It indicates that the amount is substantial. The expense of handling and the divisions on this business are highly important to us. Merchandise represents approximately 16 per cent of our revenue and with the exception of oil, no single class of traffic gives as great a proportion of our revenue. Page 1 of this exhibit shows receipts from the Western Trunk Lines at Kansas City and page 2 at St. Louis (Tr. 5533).

The statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-205.

(The statement referred to by the witness was thereupon received in evidence as Exhibit A-205.)

[fol. 1137] The Witness: Exhibit A-205 consists of three pages and shows divisions received on the first five classes by the Western Trunk Lines from Chicago to Kansas City as compared with what the lines from Chicago to Kansas City earned on the through business from Detroit and other C. F. A. points to Oklahoma as pass over lines. It shows

that in both cases the Western Trunk Lines receive more as pass over lines for the haul Chicago to Kansas City than when from Chicago Territory proper. The particular object of the exhibit is to show that the per cents applicable from Chicago to Oklahoma via Kansas City do not apply on all traffic which the Western Trunk Lines haul from Chicago to Kansas City and deliver to the Southwestern Lines because there is a substantial amount of traffic moving from Chicago to Kansas City which originates east of Chicago and that on this traffic divisions are compounded on the Mississippi River giving the Western Trunk Lines more revenue generally for their haul than on traffic originating in Chicago Territory. Naturally if the divisions on the Mississippi River Oklahoma traffic were increased in this proceeding the revenues on this particular traffic would be increased. The points of origin and destination selected are we believe representative. The first page illustrates the revenue accruing on Muskogee business and shows that with the exception of Pittsburg, the overhead revenue is in excess of the earnings on Chicago proper. The same general situation is shown to Tulsa on page 2. To Oklahoma City on page 3 the revenue in every case, overhead, exceeds the revenue of the Western Trunk Lines on Chicago Territory proper (Tr. 5334-5335).

I mentioned in explaining the exhibits that at Pittsburg the Western Trunk Lines between Chicago and Kansas City do not receive as much on the overhead traffic as they do on local traffic. I think Cleveland on page 2 from Chi-
[fol. 1138] cago to Kansas City on first class Western Trunk Lines receive 88.4 against 90.2. That is less. The second class is less, the third class is more, and the fourth and fifth class more. I think it runs that way pretty generally (Tr. 5535).

The statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-206.

(The statement referred to was thereupon received in evidence as Exhibit A-206.)

[fol. 1139] The Witness: This exhibit consists of three pages and compares the revenue that the lines from Chicago to East St. Louis receive on the first five classes on

business destined Texas and Oklahoma and compared with what the same lines accept on business from the same points destined East St. Louis and on shipments from East St. Louis destined New ork. The first four blocks on page 1 show the earnings from Chicago and East St. Louis destined Texas and to representative Oklahoma points. The last block on page 1 and the illustrations on page 2 show what the Western Trunk Lines accept for the same service on C. F. A. and Trunk Line business (Tr. 5536).

The statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-207.

(The statement referred to was thereupon received in evidence as Exhibit A-207.)

[fol. 1140] The Witness: This exhibit shows the original mid-Continent Group of petroleum oil refining points taking the Tulsa rate known as Group 3, and in effect in the mid-Continent Oil Case Docket 6129 and related cases 36 I. C. C. 114, which was decided, which was the group existing at the time the present figures on oil from Oklahoma to Western Trunk Line Territory were made. At the present time we are receiving considerably less than merchandise per cent on oil from Oklahoma to Western Trunk Line Territory via Kansas City (Tr. 5536).

Prior to October 1st, 1916, the merchandise per cents applied. At that time a basis was put into effect which has proved most unsatisfactory to us. The oil movement has grown rapidly since the divisions were arranged as illustrated by the fact that during the year 1924 petroleum oil exclusive of crude, represented 21.93 of our tonnage, 19.13 per cent of our revenue and we hauled 94,280 cars. For the first ten months of 1925 it represented 24.3 per cent of our tonnage, 21.44 per cent of our revenue, and we hauled 90,353 cars. The present oil division via Kansas City came about in much the same way as the recent Oklahoma compromise on merchandise divisions was effected. At a meeting of Western Trunk Line executives in January, 1916, shortly following the decision of the Interstate Commerce Commission in the mid-Continent case above referred to, Chariman Boyd was appointed or was delegated to outline a basis of divisions acceptable to the Western Trunk Lines. There seems from the record to have been a misunderstand-

ing as to what authority was delegated Chairman Boyd but the general thought seems to be that he was given power to announce finally what the new divisions would be, which he did. They were acceptable to the——

[fol. 1141] The Frisco, however, did not finally agree to the divisions until January 1, 1917. One of the causes contributing to the acceptance of a new basis via Kansas City was the fact that the lines operating through St. Louis were able to make an agreement with the C. & E. I. and latter with other lines, whereby those lines accepted 6½ cents on crude and 8 cents on refined oil, making the St. Louis Gateway more attractive to the Southwestern Lines than formerly and giving them a route other than Kansas City. We contend that these divisions both via Kansas City and St. Louis yield inadequate revenue to the Southwestern Lines (Tr. 5538).

The 1916 arrangement was accepted as I explained. I would hardly call it an arbitration. As I explained, Boyd was delegated to fix the new divisions and there was not a general understanding as to how much authority was given Boyd. I have the record upstairs and it is not at all clear. The Santa Fe wrote that Boyd was given absolute authority. Boyd wrote that he considered that he had absolute authority but that in view of the fact that a misunderstanding existed he wanted everybody satisfied and for that reason did not insist on the divisions going in until October, 1916 (Tr. 5538).

Boyd is Chairman of the Western Trunk Line Committee. Our road is a member of that and so are some of the other Oklahoma Lines. I think most of them are. We never agreed that the divisions reflect a proper division of the revenue under the rates prescribed by the Commission in the case to which I refer. They were presumed by the Western Trunk Lines to do that. You see, it simply goes back to this proposition that the Santa Fe and the Rock Island which had refineries on their lines, agreed to these divisions leaving the three lines just as here without having [fol. 1142] agreed to them and the competitive feature required that we acept them. We are now accepting them and have accepted them for some years, a little over nine years, but conditions have now changed. There have been

changes in the rate basis outside of the general advances and decreases. I am coming to that. The groups were extended, which I will explain in another exhibit (Tr. 5539-5540).

A map thereafter described by the witness was thereupon offered in evidence as Exhibit A-208.

(The map referred to was thereupon received in evidence as Exhibit A-208).

The Witness: Exhibit No. A-208 is a map showing the present extent of the petroleum oil refineries in Oklahoma and Texas. All the refineries in operation in Oklahoma take the Tulsa Group rate so that it can be seen from comparison with the preceding exhibit, the map Exhibit A-207, the increase in the refining business in Oklahoma during the past ten years. There was no appreciable movement of oil from Texas to Western Trunk Line Territory until after 1916. Prior to the development of the Texas oil industry the movement had always been southbound, from Kansas and Oklahoma and even from St. Louis and the East (Tr. 5540).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-209 (Tr. 5541).

(The statement referred to was thereupon received in evidence as Exhibit A-209).

[fol. 1143] The Witness: When Mr. Boyd fixed the divisions in 1916 he made three groups, the Kansas City Group, and Oklahoma Group 1 and an Oklahoma Group 2. This exhibit shows that the average distance from refining points in the original Oklahoma Group B or Tulsa Group to Kansas City was 278 miles. A majority of the Oklahoma refining points were in B. Muskogee, Ponca City and Vinita were in Group A but the Vinita Refinery, which was a very large one and the nearest Oklahoma refinery to Kansas City or St. Louis, has long since been dismantled.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-210.

(The statement referred to was thereupon received in evidence as Exhibit A-210).

[fol. 1144] The Witness: Exhibit A-210 shows that the original Group B has grown from an average of 278 miles to 353 miles to Kansas City, an increase of 75 miles over the original Group B although the divisions to the Southwestern Lines have not increased. The points shown are those actually appearing in Western Trunk Line Division Sheet 530-A as in B (Tr. 5541).

The extension of the territory in the Southwest as shown by my Exhibit A-210 was brought about following the increase in the refineries and their extension over a wider area in the state and the addition of some of the Central Oklahoma points to the Tulsa rate group. The rates were extended to these new points but I would not say that the Southwestern Lines proceeded to do it. It gets back again to the fact that the Santa Fe and the Rock Island are both Western Trunk Lines and Southwestern Trunk Lines. The fellow who did it first was the Rock Island. It is generally true that the lines serving the origin field originally extended the application of the rate to take in additional territory but there is just one other addition to that statement: The Rock Island and the Santa Fe having done that, it was just as necessary or was thought just as necessary for a line like the C. & A. and the C. G. W. to join a line like the Katy in meeting that condition as any other feature of the case. That is, it was just as important to the Western Trunk Lines as to the Katy or Frisco to meet that condition (Tr. 5542).

The Santa Fe and Rock Island extended the rate and the Katy and Frisco and the rest of these roads had to do it on account of competitive conditions. I heard part of Mr. Sickel's testimony. I wouldn't say that there was not any distinction between what was done in the Oklahoma Field and what was done with respect to putting Milwaukee on [fol. 1145] the Chicago Rate basis. It seems to me like the conditions are entirely different. This condition is simply with reference to oil and nothing but oil, one commodity where we have a large producing field and a blanket rate. Up there it was simply Milwaukee playing against Chicago and the competitive condition on all commodities. In Oklahoma territory we also have a condition where the line serving Western Trunk Line and Southwestern Territory jointly did this. I think the conditions are entirely

different. The extension of the application of the rate did not operate to change the service performed by the Western Trunk Lines. It did this, however. Of course, it gave them additional revenue in that it opened up a wider origin group which could go into Western Trunk Line Territory. It increased the traffic (Tr. 5543-5544).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-211 (Tr. 5544).

(The statement referred to was thereupon received in evidence as Exhibit A-211.)

[fol. 1146] The Witness: This exhibit shows the average distance from all of the Oklahoma refining points to both St. Louis and Kansas City and it shows an average of 342 miles to Kansas City and 543 miles to St. Louis. These are the figures that we have used in our computation on each of the exhibits and are based on the short line workable mileages. The points included are all of the Oklahoma refineries, the rates from which to Kansas City and St. Louis are on the same basis. In Exhibit A-210 I used an average mileage to Kansas City of 253 miles which is 11 miles different from the figures in Exhibit A-211. In A-210 I used Boyd's Group B and in Exhibit A-211 I used all of the Oklahoma refineries, both in the Division Sheet Group A and Group B because they all take the same rate and really any division of the Oklahoma Group as to rates or divisions is obsolete now (Tr. 5544-5545).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-212 (Tr. 5545).

(The statement referred to was thereupon received in evidence as Exhibit A-212.)

[fol. 1147] The Witness: Exhibit A-212 is a three page exhibit showing short line mileages to Kansas City and St. Louis from Texas refining points in north Texas and south Texas groups. Also the average from each group. We have not included the Ranger group in these computations nor the Pioneer nor San Antonio group but had we done so it would have materially increased the average distances shown. The Ranger Group for illustration takes the same rate to Kansas City and St. Louis and Chicago as does the North Texas Group and the average distance is substantially

greater. The rates to many interior Iowa points and other destinations in Western Trunk Line Territory however are slightly higher so it was thought best to merely use the two groups. In doing so, however, the comparisons shown are more favorable than they would otherwise be to the Western Trunk Lines. The exhibit shows an average to Kansas City from North Texas of 534 miles, south Texas 747. On page 2 north Texas to St. Louis 728; south Texas 782.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-213 (Tr. 5545).

(The statement referred to was thereupon received in evidence as Exhibit A-213.)

[fol. 1148] The Witness: Exhibit A-213 is a statement of mileages from Kansas City and East St. Louis to certain points in Illinois which were used in subsequent exhibits, to which reference will be made later. It is filed only for information and authority for the distances used. Those are all short line distances.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-214 (Tr. 5546).

(The statement referred to was thereupon received in evidence as Exhibit A-214.)

The Witness: Exhibit A-214 shows the fifth class rates from Texas refining points to Kansas City and St. Louis and is the basis of computation of average fifth class rates used in subsequent exhibits.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-215 (Tr. 5546).

(The statement referred to was thereupon received in evidence as Exhibit A-215.)

The Witness: Exhibit A-215 is an exhibit similar to A-214 and shows fifth class rates and average from Oklahoma refineries to Kansas City and St. Louis. It is merely for reference and is used in connection with subsequent exhibits.

A statement which was thereafter described by the witness was thereupon offered in evidence as Exhibit A-216 (Tr. 5547).

(The statement referred to was thereupon received in evidence as Exhibit A-216.)

[fol. 1149] The Witness: Exhibit A-216 shows rates from Ada, Okla., refining points, seven representative destinations in Western Trunk Line Territory, and shows divisions via Kansas City based first on the present oil per cent, second on the present merchandise per cent, third by using the merchandise per cent and applying the 14 per cent increase to the lines east of the Missouri River as accorded them by the Santa Fe, Rock Island, Missouri Pacific on L. C. L. traffic; fourth on a mileage prorate using average of 342 miles to Kansas City shown in Exhibit A-211; and fifth on a rate prorate of the class rates to and from Kansas City. It is not our fault that the mileage prorate or the application of merchandise per cent plus the 14 per cent increase would accord us sufficient revenue south of Kansas City but the exhibit plainly shows that based on the 14 per cent increase to the Western Trunk Lines over the merchandise per cent if applied to oil, we would receive considerably in excess of what we are now receiving (Tr. 5547).

These points of origin which I have shown all take the same rates to the destination shown, but they are not all in one group in Boyd's Division Sheet. You will notice that Muskogee and Ponca City just take the first block to Chicago. It shows that at the present time south of Kansas City we are earning 50½ cents while from the other points we are earning 17.3. Muskogee and Ponca City were in Boyd's original group A, while the other points were in his original Group B. The reason that the divisions are different from the different points is, as I explained previously, when Boyd fixed these divisions from Oklahoma he made two groups, a Group A and a Group B. Now the rates are the same from all Oklahoma points and as I stated, it seems to me that any divisional basis separating the Okla-[fol. 1150] homa refining points one from the other is obsolete. It is hard to draw a line and I used the grand average of 342 miles in my computations as to mileage prorates. I have shown the present oil per cent in the first column there which of course shows that Muskogee and Ponca City earn less money than the other points because they are in Boyd's Group A. I have used the average mileages in all

mileage per cents. In all of my per cents I have ignored the Group A-Group B theory (Tr. 5548-5549).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-217 (Tr. 5549).

(The statement referred to was thereupon received in evidence as Exhibit A-217.)

[fol. 1151] The Witness: This exhibit is a statement of the actual movement of petroleum oil from Cushing, Oklahoma, via the M. K. T. for the month of November, 1925, via Kansas City to all points in Western Trunk Line territory to which two or more cars moved during that period. It is not a statement of weighted movement but shows the actual movement and the short line distance regardless of how the shipment moved. I selected Cushing, because it is one of the most important refining points in Oklahoma and is only 280 miles distant from Kansas City, whereas my previous exhibit showed the average from Oklahoma refineries to Kansas City to be 342 miles or 62 miles greater. The exhibit shows certain fifth class rates to and from Kansas City, the present division of the oil rate, division based on merchandise per cent, division based by allowing the Western Trunk Lines 114 per cent of the present merchandise per cent, division based on a mileage prorate, division based on a rate prorate using fifth class rates to and from Kansas City as factors (Tr. 5549).

The exhibit does not show any averages but there are some to which I want to call attention. There are 123 destinations shown on the statement and the average rate is 41.7 cents. Based on the present divisions, the average division south of Kansas City is 17.4 cents; north 24.3 cents. The average haul south of Kansas City is 280 miles, north 440 miles. The average ton mile earnings south of Kansas City are 12.6 mills; north 11 mills. The Western Trunk Lines perform 61 per cent of the service and receives 58 per cent of the rates. If we had used 342 miles as an average to Kansas City it would show that the Western Trunk Lines performed 56.3 per cent of the service and received 58 per cent of the rates. Using 280 miles the distance from [fol. 1152] Cushing to Kansas City, we would receive 16.3 cents on a mileage prorate or a reduction of 1.1 cents per 100 pounds. If we used a 342 mlie average, the average

from the Oklahoma Group to Kansas City, we would have earned under a mileage prorate 43.6 per cent or 18.2 cents per 100 pounds instead of 17.4 cents per 100 pounds. We know that we are entitled to a great deal more than a straight mileage prorate on this traffic in view of the difference in the traffic and transportation conditions as reflected by rate levels, the traffic density and the fact that the great preponderance of interchange is northbound et cetera. I think that Mr. Roberts was pointing out the other day that no oil moved from Louisiana via Kansas City (Tr. 5549-5550).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-218 (Tr. 5550).

(The statement referred to was thereupon received in evidence as Exhibit A-218.)

[fol. 1153] Exhibit A-218 is similar to Exhibit A-217 except that it shows the movement for the month of November, 1925, that originated on the Midland Valley Railroad at Tulsa and moved via that line to the M. K. T. at Muskogee and the M. K. T. handled it from Muskogee to Kansas City and there delivered it to the Western Trunk Lines. It is simply an illustration where the M. K. T. is an overhead line. The figures were taken from actual interchange reports. It shows the short line mileage from various destinations to Kansas City and the actual mileage south of Kansas City. The average rate to the 93 destinations was 39.7 cents, the average revenue which the M. K. T. earned was 12.3 cents or 9.7 mills. The average revenue accruing to the Western Trunk Lines was 22.2 cents and the average distance north of Kansas City figures 449 miles an average of 9.9 mills. If we consider divisions from Tulsa on the basis of short line Santa Fe distance of 257 miles to Kansas City this statement shows that the service north is 63.6 per cent of the total while the lines north of Kansas City actually receive 58.4 per cent of the average rate. If we were to use the average distance from the Oklahoma Group and apply it to these destinations it would show that the Western Trunk Lines perform 56.7 per cent of the service for 58.4 per cent of the rate. In connection with this exhibit it should be borne in mind that the Oklahoma Lines receive a large amount of refined oil from con-

nections. That is the Oklahoma Line serving the Kansas City Gateway (Tr. 5551-5552).

Our receipts represent about 25 or 30 per cent of the total oil handled. These are our receipts from connections. Very few of these lines are respondents in this proceeding. Among the oil carrying lines not involved which make deliveries to connections at Louisiana, Texas, and Oklahoma points are the following: Wichita Falls, Ranger and Fort Worth, Wichita Falls and Southern, Dayton and Goose [fol. 1154] Creek, Oklahoma New Mexico and Pacific, Osage Railway, Midland Valley, Fort Smith & Western, Sand Springs Railroad, Oklahoma Union, Oklahoma Southwestern, Union Traction Company, Frisco & Northeastern, Okmulgee Northern.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-219 (Tr. 5552).

(The statement referred to was thereupon received in evidence as Exhibit A-219.)

[fol. 1155] The Witness: This exhibit shows rates and divisions on refined oil from Oklahoma to origin points in Illinois and to Milwaukee, using present divisions in effect via East St. Louis, also divisions on a mileage prorate and on a rate prorate using fifth class rates to and from East St. Louis as a factor, first deducting bridge in the last two illustrations the average distance used from Oklahoma points is 543 miles as detailed in Exhibit A-211. The average fifth class rate from Oklahoma refineries is 95.9 cents as shown by Exhibit A-215. This shows that generally via St. Louis we are receiving actually less than a mileage prorate. They have a straight mileage prorate. We are of course entitled to more than that amount and the exhibit shows that we are certainly receiving less than our share of the revenue on this traffic.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-220 (Tr. 5552-5553).

(The statement referred to was thereupon received in evidence as Exhibit A-220.)

[fol. 1156] The Witness: Exhibit A-220 shows the rates and present divisions from north and south Texas points

on petroleum oil. The first two pages show the North Texas rates and divisions and the following pages South Texas. The average mileages to Kansas City are those shown in Exhibit A-212. The average fifth class rates to Kansas City are shown in Exhibit A-215. The average distance north Texas refineries to Kansas City is 534 miles; the average fifth class rate $1.06; pages three and four show the rates and divisions from South Texas and show that in some instances a mileage prorate would yield us revenue in excess of the present division.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-221 (Tr. 5553-5554).

(The statement referred to was thereupon received in evidence as Exhibit A-221.)

[fol. 1157] The Witness: Exhibit A-221 is similar to A-220 except that it shows the situation via East St. Louis. This clearly shows the fact that our revenues via the St. Louis Gateway are lower than a fair basis would accord us. In five of the seven illustrations a mileage prorate, first deducting bridge, would accord us more money than we are now receiving. The oil from Texas has always moved on merchandise per cents except that I do want to correct one statement I thought you asked Mr. Dana the other day and he stated that his understanding was that the Western Trunk Lines had not compounded any revenue on northbound business. Just before I left St. Louis I had on my desk and recommended for payment a statement of differences as I recall it, about $7,000.00, where the C. & N. W. had demanded a compounding of the revenue through Marshalltown on oil from Texas on 1921 and 1922 business as I recall it (Tr. 5554-5555).

The Northwestern also asked for Tulsa revenue or whichever will give the most money. Their requests are irregular. They request Tulsa revenue from time to time but whenever we find Western Trunk Lines are taking revenues from us on Tulsa revenue, we simply deliver it to them. We haven't given anybody Tulsa revenue as I can recollect. Some roads go to greater lengths than others. I do not know as to whether the Chicago-New Orleans Railroads

are accepting the regular merchandise per cents on Texas oil (Tr. 5555).

(A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-222 (Tr. 5555). (The statement referred to was thereupon received in evidence as Exhibit A-222.)

[fol. 1158] The Witness: Exhibit A-222 shows actual movement from Texas points to destinations in Western Trunk Line Territory where two or more cars moved by the M. K. T. during September, October and November, 1925. Merchandise per cents apply on petroleum oil and its products from Texas to Western Trunk Line Territory. From Wichita Falls on page 1 is shown the movement to twenty-five destinations which is all the points to which two or more cars moved for the period shown via M. K. T. The average rate to the twenty-five destinations figures 39.6 cents. The average revenue south of Kansas City 24½ cents, north 15.1 cents. The lines north of Kansas City receive an average of 38 per cent of the rate and rendered 43 per cent of the service, their average haul being 411 miles. Based on a mile and a half for a mile for the Southwestern Lines, we would have received an average of 26.1 cents instead of an average of 24.5 cents. Wichita Falls is a representative point of origin. As the average shown on preceding exhibits if 534 miles from North Texas groups to Kansas City as compared with 540 from Wichita Falls. Page 2 shows a similar illustration from Burkburnett, Texas, to twenty-six destinations. The short line distance south of Kansas City is 554 miles. Average short line north of Kansas City 380 miles. The average of the rates to these 26 destinations is 39 cents, average revenue to the Southwestern Lines 26 cents, Western Trunk Lines 13 cents. Based on allowing the Southwestern Lines a mile and a half for a mile, we would be entitled to 26.8 cents; the Western Trunk Lines 12.2 cents (Tr. 5556).

Page 3 shows shipments from Hodge, Texas, which based on a mile and a half for a mile in division to the Southwestern Lines would accord us 25.6 cents per 100 pounds instead of an average of 25.3 cents. Similar illustrations are shown [fol. 1159] from De Leon and Houston. Page 4 shows rates

and divisions on actual shipments from Iowa Park and Electra, Texas, both points on the F. W. and D. C., to the ten destinations to which shipments moved via our lines from Iowa Park, our average earnings as intermediate line were 6 mills; the earnings of the Western Trunk Lines 6.4. Page 5 shows the shipments from North Olney or Olney, Texas, on the Wichita Falls & Southern Railway. As an intermediate carrier here we earned 5.5 mills while the Western Trunk Lines received an average rate of 19.1 cents for an average haul of 489 miles or 7.8 mills. The basis which Milwaukee takes north of Kansas City is 26, as shown on the first page of the exhibit. On the next shipment from Milwaukee the basis taken from Kansas City was 22. I have shown Milwaukee via the C. M. & St. P. and via the C. & N. W., and that's the way they actually compound their revenue. That would be true of all those instances where I have used the same point twice. I might say that I have figured these averages using Milwaukee only when I did not find any appreciable difference, although I included it twice (Tr. 5557-5558).

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-223 (Tr. 5558).

(The statement referred to was thereupon received in evidence as Exhibit A-223.)

[fol. 1160] The Witness: A volume of packing house products and fresh meat moving from Oklahoma and Texas to the east via Chicago represents about 30 per cent of our entire deliveries of this product to the Western Trunk Lines at Kansas City. This business moves to the east on through rates. For the haul Kansas City to Chicago the Western Trunk Lines receive more money than on shipments destined to Chicago proper. Exhibit A-223 shows on page 1 divisions on fresh meat and packing house products from Oklahoma City to Chicago and New York and on page 2 is shown a similar illustration from Fort Worth. These are the two packing centers of the Southwest. It is important to bear in mind that on this substantial amount of business as well as on other business moving on through rates to the east, the lines from Kansas City to Chicago are receiving greatly in excess of the merchandise

percents applicable to Chicago from Oklahoma and from Texas and of which they are complaining (Tr. 5558).

The rate of $1.36 on fresh meat from Oklahoma to New York is a through rate. The C. & A. handled this meat in the example referred to and got 33 cents. In subdivision of the through rate the C. & A. theoretically got part of the rate. As a matter of actually dividing the money under the division sheets, it is done that way because the original basis was the combination on Mississippi River. The exhibit does not show the subdivision of the through rate as between the Alton, for example, and the Katy, but it does show that we are doing considerable shrinking on the business going to the east while the lines from Kansas City to Chicago are getting considerably more (Tr. 5559).

Regardless of the fact that the divisions east are not involved in the case, it shows this: the divisions to the Mississippi River are involved in this case. Assuming that it [fol. 1161] breaks on the River as you say, then if increased divisions are accorded the Western Trunk Lines, they will get more than this amount of money on the Eastern business because they will get more to the Mississippi River.

The following is quoted verbatim from the transcript of testimony:

Q. But the division does break on the Mississippi River so far as the lines west are concerned, does it?

A. Yes.

Q. So that we have no way of knowing how that division was made?

A. Well, the cents are shown at the bottom of the page there as to the subdivision of the proportions, they don't show the proportions, however. The point that hurts us here is that we are shrinking 12.1 cents on fresh meat from Oklahoma City when it goes to New York versus Chicago.

A map thereafter described by the witness was thereupon offered in evidence as Exhibit A-224 (Tr. 5560).

(The map referred to was thereupon received in evidence as Exhibit A-224.)

[fol. 1162] The Witness: Exhibit A-224 is a map showing the extent of the cotton-seed oil mills in operation in Oklahoma and Texas. Those States have a large number of mills and the map is filed prefacing testimony with regard

to divisions on cottonseed cake and meal moving from Oklahoma and Texas into Western Trunk Line Territory. It serves to illustrate the importance of this industry to Oklahoma and Texas.

The Statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-225 (Tr. 5560-5561).

(The statement referred to was thereupon received in evidence as Exhibit A-225.)

The Witness: Exhibit A-225 shows the movement via our line to Western Trunk Line Territory for the year 1925, the cottonseed cake moving via Kansas City which consisted of 396 cars. These figures were taken from the actual interchange records at Kansas City. The other Southwestern Lines made substantial deliveries of this commodity to connections at Kansas City and it is safe to assume that the deliveries as a whole approximated 2,000 cars yearly.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-226 (Tr. 5561).

(The statement referred to was thereupon received in evidence as Exhibit A-226.)

[fol. 1163] The Witness: Exhibit A-226 consists of seven pages and shows divisions on actual movement of cottonseed cake and meal from Oklahoma and Texas to Western Trunk Line Territory. Page 1 shows rates and divisions from Oklahoma points to Illinois and Wisconsin. We have shown the present divisions, divisions based on short line mileage prorate, rate prorate, using proportional rates north of East St. Louis, and have also shown the per cent that the present divisions are of the local or proportional rates to and from the basic points (Tr. 5561-5562).

The second page shows similar information, from Texas points. On page 3 we have shown some actual movements from Oklahoma via Kansas City, showing the present divisions, present merchandise percentage basis and basis arrived at by allowing lines north of Kansas City 114 per cent for their present merchandise per cent and short line mileage prorate and rate prorate, using proportional rates north of Kansas City as the factor and the per cent

that the present divisions are of the local or proportional rate to and from the basis point. Pages 4, 5, 6 and 7 show origins and destinations of actual shipments moving through Kansas City to Western Trunk Line Territory by the M. K. T. for the months of September, October and November, 1925, with the same information as on page 3. Note that in every case the Western Trunk lines received their full proportional rate beyond Kansas City. The rates shown here are the rates the Commission recently prescribed for the movement of these commodities. The order did not apply as to rates from Kansas City to Western Trunk Line destinations. It applies from Southwest to Western Trunk Line destinations. These rates are the rates in effect under that order, and the rates shown from the Southwest to Kansas City are also the rates under [fol. 1164] the order. The rates from Kansas City north were not involved.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-227 (Tr. 5562-5563).

(The statement referred to was thereupon received in evidence as Exhibit A-227.)

[fol. 1165] The Witness: Exhibit A-227 shows the movement of cement plaster from Agatite, Rotan and Hamlin, Texas, via the M. K. T. to points in Western Trunk Line Territory during the months of September, October and November, 1925. I might explain right here that I have made no attempt to show the number of cars. It just simply shows the destinations to which cars moved. Agatite is located on the Fort Worth & Denver City and page 1 shows the shipments from this point. The present rates and divisions, earnings per ton mile, as well as divisions based on the Class C rate as factor are shown. Under the present basis of division we are receiving a maximum of 4 mills per ton mile for any traffic involved. In no case did the Western Trunk Lines receive less than 6.3 mills. Page 3 shows the movement from Rotan and Hamlin, both points on our lines in Texas. Note the ton mile earnings, we receive it materially less in every — less than the Western Trunk Lines.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-228 (Tr. 5563-5564).

(The statement referred to was thereupon received in evidence as Exhibit A-228.)

[fol. 1166] The Witness: Exhibit A-228 is in part an abstract taken from Western Trunk Line Exhibit A-60, which shows that on 3,319 cars of petroleum during June 1924 via Kansas City, from Oklahoma Group B division points, the Western Trunk Lines received 56 per cent of the revenue for 58 per cent of the haul. On the grand total from Oklahoma and Texas they received 45 per cent of the revenue via Kansas City or 52 per cent of the haul. On page 2 is shown a situation which is taken from the same Exhibit via East St. Louis. Of the 287 cars moving from Group B ponts, the Western Trunk Lines according to figures shown in Exhibit A-60 received 35 per cent of the revenue for 36 per cent of the service. In the second block is shown the same illustration with the bridge at St. Louis deducted from the Southwestern Lines' proportion. From Group B points it shows that the Western Trunk Lines received 37 per cent of the revenue for 36 per cent of the service illustrating that the revenue via the St. Louis gateway accorded the Western Trunk Lines is entirely too high. From Texas with the bridge deducted it shows that Western Trunk Lines performed 24 per cent of the service while receiving 26 per cent of the revenue (Tr. 5564).

I don't think it is a fact that our revenue with the bridge deducted is net while the revenue north is gross. Our revenue is with the bridge deducted, but I have not deducted any originating absorption. We have refineries located on other lines and we have considerable deductions to make at originating points just the same as you have at destination and one pretty generally offsets the other. It is not my opinion that where there is a joint facility owned by a number of lines that one set of lines should pay the bridge toll on all traffic moving in all directions.

A statement thereafter described by the witness was [fol. 1167] thereupon offered in evidence as Exhibit A-229 (Tr. 5565).

(The statement referred to was thereupon received in evidence as Exhibit A-229.)

[fol. 1168] The Witness: Exhibit A-229 shows the southbound movement of miscellaneous commodities, all of which actually move via route shown in October, 1924, filed principally with a view of illustrating what the M. K. T. furnishes as a pass over line between Kansas City and its Texas connections on such traffic. The first page shows shipments which moved via Omaha, Council Bluffs or Des Moines on which the Western Trunk Lines compounded their revenue northward Kansas City. Our earnings on this business are entirely unfavorable as compared with the earnings of the Western Trunk Lines. On page 2 the first two items are movements direct via Kansas City. Our earnings are there considerably lower than those of the Western Trunk Lines. The last item is another instance where the revenue is compounded through Des Moines where C. & N. W. exacted 23.3 cents per 100 pounds for its haul of 72 miles from Marshalltown to Des Moines.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-230 (Tr. 5565-5566).

(The statement referred to was thereupon received in evidence as Exhibit A-230.)

[fol. 1169] The Witness: Exhibit A-230 is a companion of the preceding exhibit and shows the situation northbound from Oklahoma where the M. K. T. is an intermediate carrier. It shows conclusively that we cannot and should not be compelled to give up any money on this traffic as to which we are a pass over line.

A statement thereafter described by the witness was thereupon offered in evidence as Exhibit A-231 (Tr. 5566).

(The statement referred to was thereupon received in vidence as Exhibit A-231.)

[fol. 1170] The Witness: Exhibit A-231 illustrates a similar northbound situation from Texas and shows divisions accruing to the various lines where the M. K. T. is intermediate on representative northbound moving commodities. Here the showing is such that it is apparent; the intermediate line such as the M. K. T. cannot bear any additional shrink in its revenue (Tr. 5566-5567).

At the beginning of the present hearing Mr. Parsons read into the record some figures showing what the recent compromise with the trans-Missouri and Oklahoma lines mean to the Western Trunk Lines in the way of additional revenue. He made the statement that out of the total amount based on the June, 1924, figures, only $1,931.84 represented the amount that the Western Trunk Lines derived from the increase on Oklahoma traffic through the compromise with the Santa Fe-Rock Island and Missouri Pacific and that based on that figure and using the ratio that the general revenue bore to the entire year it would only mean $25,553.44 per year. This bears out my statement that the Oklahoma compromise is of vastly more importance to such lines as the Frisco, K. C. S. and Katy, all of which terminate at the Missouri River, than it is to the Santa Fe or Rock Island. We have had some figures compiled as to the effect of the 14 per cent increase on our revenue had it been accorded. Based on figures we have taken from our March, 1924, revenues the loss on Oklahoma business on the compromise basis would have amounted $5,198.21 for that month. March 1924 represented 6.9 per cent of our freight revenue for 1924, the 1924 revenue bing $42,331,704.74, and March of that year $2,917,269.80. On this basis the total loss for the year would figure $75,300.00. This does not include petroleum oil, cottonseed cake and meal and other commodities on which merchandise per cents do not apply [fol. 1171] and of course does not include loss accruing to the Frisco or Kansas City Southern (Tr. 5567-5568).

J. R. Mills was thereupon called as a witness and testified as follows:

Direct examination:

I am Assistant General Freight Agent of the Kansas City Southern and have had about thirty-five years experience in traffic work.

(Attorney Towner here conceded the witness' qualifications.)

I have had experience in the making of divisions between the Western Trunk Lines and the Southwestern Lines during that period (Tr. 5568-5569).

My Exhibit No. A-232 consists of seven pages showing the rates and divisions on lumber from the Southwestern blanket territory to destinations in the Western Trunk Line States. This exhibit is cast along Mr. Buhrle's Exhibit No. A-39—I believe is the number—on which he drew off on a map a lot of groups. Now we have attempted to take those group outlines showed on that map and take a few stations in each of those groups and which we believe is representative of the entire situation so far as destinations on the Western Trunk Line roads are concerned. This statement shows first the division south of Kansas City in cents per 100 pounds and the proportions that division bears to the through rates designated in per cents. It also shows for the lines south of Kansas City the divisions that would accrue by use of the merchandise per cent. It shows similar information with reference to the divisions accruing to the Western Trunk Lines north of Kansas City and what they would receive based on the current merchandise per cent. It shows the average distance to Kansas City, Mo., and the distance beyond Kansas City to the points designated. It [fol. 1172] also shows the territory in which the points of destination are located (Tr. 5569).

With reference to the average mileage to Kansas City there is a note "See representative origin points listed on Sheet No. 2." Sheet No. 2 is the one that has been marked here as Exhibit A-233. Exhibit A-233 gives a list of representative mill points in Southwest Territory that are located in the blanket group usually designated as the Southwestern Blanket Territory so far as lumber rates are concerned. These points were selected from the points located on the various lumber producing roads in the blanket territory. It shows the routes and the distances to Kansas City via such routes and the average distance from all of the points mentioned via various routes as shown and which are the workable routes as designated in the tariff referred to on the exhibit. I might also say that the majority of these points are large mill points. We have occasionally picked out a point in a certain group or on a certain line that probably was not a mill point. At the same time the combination would produce a lot of rough material in the way of ties, poles and other forest products.

Referring to Exhibit A-232 I would give some examples of the difference between the earnings under a mileage pro-

rate and the earnings under the rates as actually divided. I will have to do it by first giving such distances and indicating what those distances would alow the Western Trunk Lines based on a mileage prorate. If the Western Trunk Lines have a haul of one hundred miles, a mileage prorate would allow them approximately 11 percent; 200 miles would allow them approximately 20 percent; 300 miles 27 percent; 400 miles 33.3 percent; 500 miles 38.5 percent; 600 miles 42.9 percent; 700 miles 46.7 percent; 800 miles 50 percent. And taking the first page of the exhibit: Jefferson City, Missouri, 213 miles from Kansas City, 26.6 percent [fol. 1173] and a mileage prorate would allow approximately 20 percent. Machens, Mo. 319 miles to Kansas City would allow a little over 27 percent, while actually the lines north or east of Kansas City receive 44.6 percent. Hannibal, Mo., 200 miles from Kansas City, a mileage prorate would give them 20 percent. That is the current percent and they actually receive 41.1 percent out of the through rate. Now I can take each one of these sheets and the results would be practically the same except as to the degree of difference. In a very large majority of the cases the lines north of Kansas City receive very very much in excess of a mileage prorate. The only difference would be to a few points in Wisconsin where the rates were adjusted on a little different basis than to the balance of the territory and which I will try to explain a little alter (Tr. 5570-5571-5572).

(The statement theretofore described by the witness and referred to as Exhibit A-232 was thereupon received in evidence as Exhibit A-232.)

[fol. 1174] In getting the rate south in Exhibit A-232 and A-233 I used all the routes and mileages from the origin points. In figuring the mileages north I didn't use the short line distance at all. I took the actual routes (Tr. 5572).

We didn't use the average mileages because we did not have sufficient time. We have not had anything like the amount of time that the Western Trunk Lines had. If I had started at the north end instead of the south end it would not have changed the picture at all because any way you figure it the northern lines are receiving very much in excess of a mileage prorate. Referring to Crossett, Arkan-

sas, where an average mileage of 806 miles is used as compared with the direct short line of 662 miles, I don't think it would change the actual route. I noticed that we actually handled lumber from Crossett, Ark., via Monroe, V. S. & P. and our line. I will concede that some of the lumber from Kansas City might move over a road other than the Santa Fe. I don't know what the mileage of the Great Western from Kansas City to Chicago is. I should say that a reasonable mileage for us between Kansas City and Chicago would be 490 miles or 483 miles or something like that. I think it is correct that if I wanted to make the picture on the proper basis I should use the average mileage south and the average mileage north of all routes. I would say if that were done the Western Trunk Lines would still receive much in excess of a mileage prorate. Exhibit A-233 shows the short line mileages from all of the origin points to Kansas City in some shape or other via all routes (Tr. 5573-5574-5575).

I want to explain the manner in which the through rates on lumber to Western Trunk Line points was originally made. The Western Trunk Lines apparently had con- [fol. 1175] ferences among themselves and determined the rates they wanted on this movement from Cairo and group, St. Louis and group, and Kansas City. After they had fixed on their divisions or proportional rates, they then would ask for a conference with the Southwestern Lines so they might determine upon the through rates. I think from the inception of the through rates to Western Trunk Lines or at least when through rates were first published the rate to Cairo from some of the west side lines was 14 cents and to St. Louis 16. Those figures, however, did not apply from all of the originating lumber lines (Tr. 5574).

Later on the rate to Cairo was increased to 16 cents and to St. Louis to basis or 18 cents and the through rates to Western Trunk Line points after the rate to Mississippi River Crossings were readjusted, were based on those figures. In a majority of the cases the rates were made on the Cairo combination. There were some few instances where St. Louis made the combination but that was to near by points. There were very few instances where the rates to Kansas City which was 23 cents while the rate to St. Louis was 18 and as I say that figure was used in very few

instances in making rates even to the territory in the immediate vicinity of Kansas City. Now generally speaking the rate to the territory between Missouri and the Mississippi River, no matter the distance, were usually fixed on the same basis and that basis held except to a point nearby to either Kansas City or St. Louis where the combination was such that it was impossible to carry the rates on the St. Louis combination or Cairo combination. As an example, the distances from St. Louis to Des Moines is 340 miles short line and from Kansas City 218 or 20 miles short line and the rates were the same except for a certain period when I believe the Wabash carried probably a cent or a cent [fol. 1176] and a half less from St. Louis than the lines carried from Kansas City (Tr. 5575-5576).

Now to Mississippi River crossings and Illinois points, Wisconsin points including Chicago and Milwaukee, the rates generally made on the Cairo combination. At that time, that is, so far as my recollection goes, the origin rate from Cairo was Chicago was 10½ cents and from St. Louis 8½ and Milwaukee was either 2 or 3 cents higher, but these combinations were used in the construction of the through rates. In divisions the lines St. Louis to Chicago, I believe, took 1 cent less than their local. In any event the division they received north of St. Louis was based on a proportion of the rate for the Cairo group. Then from Kansas City to the River Crossings and east thereof in Western Trunk Line Territory they accepted substantially the Cairo division. Now naturally from the lumber producing territory which is largely in eastern Texas, Louisiana and southern Arkansas, the distance to Kansas City in practically all instances was either the same or exceeded the distance to St. Louis. That meant that the lines operating south of Kansas City were compelled to handle their lumber at a less ton mile rate than the lines through St. Louis. In fact if we expected to participate in the movement of lumber to St. Louis at all in connection with the Western Trunk Lines, it was necessary for their entire proportion to come out of the revenue of the lines south of Kansas City. To the C. F. A. Territory the rates were all made—I should say the rates were all originally made on the Cairo combination. The C. F. A. lines accepted on business handled through East St.

Louis a division that was 3 cents per 100 pounds less than the rate from Cairo (Tr. 5576-5577).

From Kansas City the lines generally did not participate [fol. 1177] in this movement. The Kansas City Southern originally had through rates via Kansas City in connection with the Wabash alone to points such as Detroit, Buffalo and later on were permitted by our other connections to establish similar routes via Kansas City in connection with their lines. I personally handled the negotiations with the Trunk Lines myself and demurred at first to attempting to establish through rates via Kansas City. We did, however, agree to the same basis for dividing as in the case of the Chicago, where the lines allowed us Cairo revenue. In some instances since that time the Trunk Lines have undertaken to change the divisions to C. F. A. Territory but we have declined to change from the original basis and after calling their attention to the original understanding had with them, they have desisted in their efforts to change these divisions (Tr. 5577-5578).

In handling this business via Kansas City the Kansas City Southern is, on lumber from connecting lines, really one of the connecting link roads. The other lines either have through rails to St. Louis or through rails to Chicago. It is true the Santa Fe and Rock Island for instance probably turn some lumber over to their connections at Kansas City. I believe, however, that there would be very few instances of this kind because they can handle lumber through to their junctions with delivering lines east of Kansas City. Likewise the lines operating to St. Louis with their own rails, would probably deliver some of this lumber to Western Trunk Lines, but I am satisfied that it would only be in instances and in the case of destinations that are located closer to the Missouri River. Hence the Kansas City Southern is the only Southwestern Line that undertakes to handle all of its lumber via its connections at Kansas City and I am frank enough to say that should there be any in- [fol. 1178] crease in the divisions east of Kansas City, to the C. F. A. and eastern territory, it would be our disposition to eliminate so far as possible the movement of this business via the Western Trunk Lines (Tr. 5578-5579).

In the majority of cases the haul to the Southwestern Lines on lumber is a one-line haul. There are several smal-

ler lines and some of the tap lines, of course, where it is two line service. With the Kansas City Southern, except as to its own lumber, it is always two and in many cases three-line service. There is a good big portion of the lumber that originates on the tap lines and there is also a very large proportion that we receive from our connections such as the L. R. & N., the L. & A. and the V. S. & P., the Southern Pacific, the Texas Pacific and their short line connections. It might be in some cases tap lines and in others there would be short line roads that are not in the tap line class. Fifty per cent of the Kansas City Southern's lumber business originates on short lines or tap lines and other short line connections (Tr. 5579-5580).

Referring to the question of mileages there is a Chicago destination territory. So far as lumber is concerned the furthnerest point in that territory is Chicago. I say that advisedly because lumber rates are based on the rates to and from the Mississippi River, so that it is substantially true that the comparison of the mileage from the origin to Kansas City and from Kansas City to Chicago is a comparison of the average from the origin points to Kansas City with the short line mileage to the fartherest point in the destination group (Tr. 5580).

I would say that the Southwestern Lines are naturally entitled to an increase in their divisions on lumber if the [fol. 1179] Western Trunk Lines receive in exces of a mileage prorate. I don't see any reason why the merchandise per cent should not apply (Tr. 5581).

About twenty per cent of the Kansas City Southern's total traffic is forest products. I think the longest estimated life of any mill in the district served by the Kansas City Southern is approximately five years. The large mills are closing down pretty fast and when the last of them closes down why the only movement from this district will be in the nature of poles, ties and posts, fence posts, small material, and mine props. I think it will make a considerable reduction in the movement of forest products via the Kansas City Southern. It is very hard to estimate, but I should say that we can expect a decrease of at least fifty per cent and probably more in forest products (Tr. 5581-5582).

About twenty-five per cent of the total traffic of the Kansas City Southern is petroleum and its products. The Kan-

sas City Southern has had some experience in the reduction of this traffic. We were one of the pioneers in the production of petroleum in the Beaumont Field in Texas and we also had a production in Caddo Field near Shreveport. Those two productions have just about disappeared so far as local production is concerned. I would say that from our experience that the movement of petroleum products is not a stable movement except to the extent that we depend on our connections for the oil movement. We at one time handled quite a lot of oil out of the Oklahoma Field, but with the adjustment, or readjustment of divisions, we lost practically the entire movement from Oklahoma in connection with the Midland Valley and the other short lines. It was brought about by the fact that the Midland Valley has a direct connection with other lines to Chicago and to St. Louis. Their percentages are based on mileage with a minimum figure and a break out for the shorter hauls to the [fol. 1180] direct through Chicago lines, they receive, on account of the minimum they receive about the same revenue as they would receive if they hauled it to our junction which is considerably farther away. They did that for a while until their revenue was reduced materially and that apparently called their attention to the fact that they were handling this oil to connections with our line and at a pretty low figure and from then on the movement has gradually dissipated. I suppose some of it is also going to the connections through St. Louis where the divisions allowed the Trunk Lines from that point is somewhat less than from Kansas City. Consequently by the use of their minimum division and which they receive out of the divisions south of St. Louis, it probably allows them more money than we can afford to allow them (Tr. 5583).

The change in divisions via Kansas City was the result of the agreement entered into by Mr. Boyd and Mr. Leland as referred to by Witness Trovillion. That was substantially a mileage prorate. It did not affect the other lines from Chicago into the Southwest to which I have referred except as to the tonnage they turned over to their connections at Kansas City. Having their through rates to Chicago and junctions farther east than Kansas City naturally their effort would be to handle the business via their

longer route or junction point and that is one of the things that we have had to contend with all along (Tr. 5584).

We deliver quite a lot of produce, apples, berries, and other perishables, raised along our line to our connections at Kansas City. We have as the originating line, expenses very similar to those referred to by Witness Stanage. We have no refrigerators of our own. It is necesary for us to arrange with one of the refrigerator lines to handle the [fol. 1181] traffic. That is absolutely necessary for the protection of the carriers and in handling it we must furnish special service, special trains, special dodger service to handle it and concentrate it at some given point. It requires icing and reicing and additional handling and in addition to that it is necessary for us at times to take care of a part of the icing expense where ice is pretty high. The refrigeration rates are based on a nominal charge per ton for ice and if the refrigerator car lines have to pay over $4.00 or $.50 per ton for ice, why we have to take care of practically the entire expense brought about by the initial cost of ice and that at times has amounted to considerable. There is no way we can get out from under that expense because it is covered by contract and it is up to us to either get ice for them at a reasonable rate or assume or take care of the difference ourselves. The proportion of fruits and vegetables handled by the Kansas City Southern to the total traffic is somewhat less than the Frisco, at least in the case of some commodities, but the amounts would be comparative. I should say probably that we would handle about twenty-five to thirty-five per cent or more of the amount that the Frisco handles (Tr. 5584-5585).

The Kansas City Southern handles ores and ore concentrates via Kansas City. We have made a recent connection through a new line down to Baxter, Kansas, we connect with some of the small ore roads and we are in a position to handle that ore to the same extent as the other lines and we probably will have to handle the larger part of it to Kansas City (Tr. 5585-5586).

We handle interchange of cottonseed cake and meal via Kansas City. We have several oil mills on our lines. This traffic originates at Ashdown, Texarkana, Fort Smith, Salisaw and Shreveport (Tr. 5586).

[fol. 1182] (The statement of average mileages theretofore described by the witness and referred to as Exhibit A-233 was thereupon received in evidence as Exhibit A-233.)

[fol. 1183] I stated that I would explain some changes that had been made in the through rates on lumber to stations in Wisconsin on the Milwaukee Lines and I just wanted to say that after the through rates had been established on the combination of locals, the Milwaukee people came to us in reference to a large movement of poles to their Wisconsin stations and the rates were reduced somewhat below the combination and the reduction was prorated and that was the explanation that I wanted to make with reference to those rates not being on the combination basis as subsequently increased and subsequently reduced on July 1, 1922 (Tr. 5587).

Reverting to the class rate divisions from Chicago Territory to Fort Smith, the first class $2.04, 2nd class $1.72, 3rd $1.40, 4th $1.19½, 5th 94 cents, A $1.04½, B 81½ cents, C 72 cents, D 61 cents, E 51 cents. The division north of Kansas City 45 percent for the first four classes and 50 percent on the balance of the classes, which allows the lines north 91.8, 77.4, 63, 53.8, 47, 52.2, 40.8, 36, 30.5, 25.5. The locals north of Kansas City are $1.20, $1.02, 84, 60, 42, 48, 39, 33½, 27, 24. The divisions are in excess of the locals by the following figures: on 5th class 5 cents, A 4.2, B 1.8, C 2.5, D 3.5, E 1.5.

The authorities are F. A. Leland's I. C. C. 1688, I. C. C. 1644; E. B. Boyd's ICC 1841, KCS Percentage Sheet 188-D and Percentage Sheet 121-C. The short line distance from Chicago to Kansas City is 452 miles. The short line distance from St. Louis to Kansas City is 278 miles. St. Louis distance is 61 percent of the Chicago distance. On business from St. Louis Territor- to Fort Smith the line north of Kansas City received 32 percent which is 64 percent of the divisions allowed from Chicago to Kansas City, on the basis of the 50 percent division and 71.1 of the Chicago division, [fol. 1184] were based on 45 percent.

(Here there was a discussion as to the short line distance from Chicago to Kansas City. Mr. Dana said that the correct short line distance, freight line, was 452 miles). (Tr. 5588.)

From Chicago Territory to Shreveport the first ten classes are as follows: $2.32, 1.96, 1.61, 1.37, 1.08½, 1.30, 93.5, 82, 70, 60. Divisions north of Kansas City 92.8, 78.4, 64.4, 54.8, 43.4, 48, 37.4, 32.8, 28, 24. These divisions are based on the line north of Kansas City receiving on Shreveport 40 percent of the through rates from Chicago. The average rate from Chicago to Kansas City is 58 cents. The average division is 50.4 cents or 87 percent of the local of the average local. The average rate Kansas City to Shreveport is 112.6, average division 64.4 or 60 per cent of the local. St. Louis Territory, the line north of Kansas City on Shreveport is allowed 25 percent or 62.5 percent of the division from Chicago, while the St. Louis distance is 61 percent of the Chicago distance. The first ten classes from Chicago territory to De Quincy and Lake Charles, La., are: 237, 201, 163, 140, 114.5, 123.5, 94, 84, 71.5, 61.5. The lines north are allowed 30 percent resulting in the following divisions: 71.1, 60.3, 48.9, 42, 34.3, 37, 28.2, 25.2, 21.5, 18.4. The average rate Chicago to Kansas City is 58 cents; average division 38.7 or 66.7 percent of local. Average rate Kansas City to De Quincy and Lake Charles 113.6; average division 80 cents or 70 percent of local. The division from north of Kansas City on St. Louis is 25 percent or 83.3 percent of the Chicago division, while the distance from St. Louis is 61 percent of the Chicago distance (Tr. 5589).

Now in connection with Mr. Sickel's Exhibit No. A-170, giving divisions via St. Louis and Cairo to Louisiana Territory: as I understand it, the divisions with the lines north [fol. 1185] of Kansas City on Chicago Territory to the so-called Shreveport Group is 40 percent. On St. Louis Territory via Kansas City 25 percent. Generally speaking to the territory south of the Shreveport Group the divisions are as follows: to De Ridder, Bon Ami, De Quincy, Lake Charles and Westlake, the Chicago Territory Lines north 30 percent; St. Louis Territory Lines north 25 percent. To the balance of the territory in Louisiana south of the Shreveport Group it is my understanding the lines ought to receive on the Chicago Territory 25 percent north of Kansas City and on St. Louis Territory 20 percent north of Kansas City. These divisions being shown in D. A. R. System Percentage Sheet No. 121-C. All of the rates and divisions which I have given prior to that are shown in the

same authorities I gave in the first illustration (Tr. 5590).

Exhibit No. 234, consisting of a blue-print map showing the principal Southwestern Lines forming the short routes or some of the shorter routes, St. Louis to Kansas City, will be used to illustrate some of the difficulties encountered by the lines making connecting links between the Southwestern Lines on the one hand and the Western Trunk Lines on the other hand via the Kansas City Gateway. The through lines to St. Louis such as the Missouri Pacific in black, the Frisco in yellow, the Cotton Belt purple and the M. K. T. green. It will be noted the Cotton Belt, the Missouri Pacific, the Frisco and the M. K. T. have a connection or connections with practically every origin line in the four Southwestern States and through such connections reach the balance of the Southwestern Lines (Tr. 5590-5591).

It is necessary for lines forming routes with lines such as the Kansas City Southern, Santa Fe and other lines forming these connecting links, consisting of such lines as [fol. 1186] do not reach St. Louis with their own rails, to join in meeting competition set up by these direct St. Louis Lines, that is to say the Western Trunk Lines cannot expect nor can these lines forming the so-called connecting links afford to allow Western Trunk Lines an increase in divisions to or from St. Louis proper and to or from Mississippi River Crossings on traffic originating or destined east thereof in C. F. A. and Trunk Line Territory since such an increase must eventually come out of their proportions. They could not shift any portion of the increase to their connections on the south because such lines to the south of these connecting links could and probably would shift the routing to their direct or through St. Louis connections. I mean that any increase to the Western Trunk Lines via Kansas City would necessarily come out of the divisions of the Kansas City Southern and such lines as have no connections to St. Louis and which would make delivery to the Western Trunk Lines at Kansas City. In other words, this proceeding does not cover the territory beyond St. Louis for the purpose of determining whether there will be any increase in the divisions over to C. F. A. Territory because the direct St. Louis lines make delivery to the C. F. A. lines at that point. If they should deliver to a line like the C. & E. I. for instance, they would still have to allow regular

division beyond St. Louis and the C. & E. I., as stated by the Examiner, would get their division out of the Eastern Lines, that is they would receive a proportion of the division from St. Louis via Chicago and no increase being involved in the route through St. Louis we could not expect the originating line to voluntarily join in the increase allowed the lines between Kansas City and St. Louis. They would probably refuse to do it (Tr. 5591-5592).

As stated the originating lines in Oklahoma, Arkansas, Texas and Louisiana have direct connections with one or [fol. 1187] more of the Southwestern Lines that reach St. Louis with their rails direct and these connections are generally at junction points, also reached by the Kansas City Southern or a junction point nearby. Service of the originating short and trunk lines is substantially the same regardless of line to which delivery is made and since distances largely fix the measure of their allowances we could not expect assistance from the originating lines in taking care of or sharing an increase in divisions of the Western Trunk Lines nor the divisions via the routes reaching St. Louis or points in eastern states via strictly Southwestern routes to St. Louis are not involved (Tr. 5592-5593).

Take as an example a car of freight originating at a point on the L. & A. Railroad destined to St. Louis. The L. & A. received 35 and 40 percent of the revenue to St. Louis or on the proportion south of St. Louis when destined beyond, the routing being via Winnfield, Natchez or Shreveport and the line other than the K. C. A. via such through route no change is proposed nor do we consider the allowances should be changed, yet the K. C. A. if it expects to handle that business would have to make the same allowance to the L. & A. out of the through rate and also make the proper allowance to the line between Kansas City and St. Louis ranging from 20 to 32 percent or restated, L. & A. 35 percent, direct St. Louis line 65 percent, or via the K. C. S. route L. & A. 35 percent, K. C. S. 40 percent, Wabash 25 percent or 32 percent as the case may be, that being the present division for the Wabash. If originating line has a greater haul the result might be L. & A. 40 percent, direct line to St. Louis 60 percent, or via K. C. S. route L. & A. 40 percent, K. C. S. 40 percent, Wabash 20 percent, present division for Wabash. Now the mileages originating line

[fol. 1188] might range from 100 to 150 miles; K. C. S. 560 miles, Wabash 278 miles. If handled via direct St. Louis line the delivering line service would probably be similar to that of the Kansas City Southern and they would receive as their revenue the sum of the K. C. S. and Wabash jointly. In other words the distance of the direct route from Shreveport to St. Louis, I believe the Cotton Belt distance is 593 miles, the Wabash 278 miles and we would meet the competition of the direct line. The mileage from Shreveport to Kansas City is 560 miles (Tr. 5593-5594).

Another example would be in connection with the divisions to and from Fort Smith & Western points, the other line basis being mileage with a minimum division of 30 percent for the originating short line and a similar basis applies to certain other lines except as to the size of their minimum. In an instance where they receive 30 percent of the divisions to either Kansas City or St. Louis, and in case of shipment to C. F. A. and beyond, the comparison would be Fort Smith & Western 30 percent, direct St. Louis line 70 percent. Via Kansas City, Fort Smith & Western 30 percent, K. C. S. 35, Wabash 35, or present division for the latter. The only change contemplated would be in case of the route via Kansas City. Any increased divisions to Western Trunk Lines via such route would come out of K. C. S. or other intermediate line. The Fort Smith & Western would certainly resist any effort looking toward a contribution from them. The same example would apply with equal force to a local movement to St. Louis. The movement would be in case of route via K. C. S., Fort Smith & Western 250 miles or less, K. C. S. 316 miles, Wabash 278 miles. The percentages I am referring to are the percentages of the *W*outhwestern Lines out of the joint rate, or in some instances the rate might be made on the combination. It would be just the same though, that the result would be [fol. 1189] the same. The combination, of course, is not involved. The above examples illustrate conditions that are ever present and cannot be changed without more or less disaster to the Western Trunk Lines as well as the Intermediate connecting link carriers, such as the Kansas City Southern (Tr. 5594-5595).

(The map described by the witness and referred to as Exhibit A-234 was thereupon received in evidence as Exhibit A-234.)

[fol. 1190] Exhibit A-235 is also a blue-print map showing the same information with reference to the routes through Chicago and include the routes to Chicago serving Chicago Territory direct, and illustrate the conditions with reference to the handling of this business via the through route to Chicago via Kansas City and will apply to any shipments that are delivered to connecting lines at Kansas City. The Santa Fe and C. R. I. & P. serve the Southwestern Territory with direct rails to and from Chicago and to and from the Southwestern States and other Southwestern Lines must compete with these lines, and in addition the Illinois Central, for traffic to and from Chicago Territory and points beyond routing via Chicago (Tr. 5595-5596).

The lines find it necessary and very expensive at times to allow originating lines revenue corresponding to that received by them on traffic delivered to the through lines, having their own rails to and from Chicago, and also allow Western Trunk Lines a greater division to or from Kansas City than to or from St. Louis, amounting to differences ranging from 10 to 20 percent of the through rate. This difference in divisions is not reflected in the differences in the distances as between the service performed by Southwestern Lines to or from Kansas City as compared to service to or from St. Louis.—It is true the Western Trunk Lines perform a somewhat greater service between Kansas City and Chicago as compared to St. Louis and Chicago. The Southwestern Lines, however, have such a condition with reference to movements to or from southern Arkansas and Louisiana as a whole. Notwithstanding this the Southwestern Lines are always compelled to pay a greater division to or from Kansas City than to or from St. Louis to the Chicago Territory or beyond. As previously stated this difference generally is taken from the revenue of the [fol. 1191] Southwestern Lines, making delivery to the Western Trunk Lines at Kansas City (Tr. 5596).

Taking as an illustration the movement between Chicago and Alexandria, La., if a shipment moves via St. Louis, the short line distance from Chicago to St. Louis is 278 miles. From St. Louis to Alexandria 589 miles. The short line

distance from Chicago to Kansas City is 452 miles and from Kansas City to Alexandria 560 miles; via the Kansas City Southern to Shreveport; and 120 miles for the T. & P. from Shreveport to Alexandria. Another example from Chicago to Lake Charles, the distance from Chicago to East St. Louis is 278 miles, from East St. Louis to Lake Charles via the Missouri Pacific rails is 689 miles. From Chicago to Kansas City 452 miles, from Kansas City to Lake Charles 741 miles. It will be seen that while it is true the distance from Chicago to Kansas City is greater than it is from Chicago to St. Louis, yet so far as the service to Kansas City is concerned you can take southern Arkansas, in fact any territory south of Texarkana, Texas, on the Kansas City Southern and any territory east of the Kansas City Southern in either Arkansas or Louisiana, the distance from Kansas City will be the same or greater than from St. Louis. When I say the same, I of course know that so far as the distances on the Kansas City Southern are concerned, there might be a few miles difference, that is the distance from St. Louis might be fifteen or twenty miles shorter than from Kansas City but for all practical purposes they are about the same, and it means that any increase in the revenue allowed to Kansas City, where greater than to St. Louis, the difference must all come out of the connecting link road or substantially so (Tr. 5597-5598).

I would say that our situation in that respect south of Kansas City is different from the situation of the Northwestern because the Northwestern roads are getting these pyramid divisions.

[fol. 1192] As a matter of geography we have no railroad to St. Louis and neither have they. Our difficulty lies in the fact that our railroad does not reach St. Louis just like their railroad don't run to St. Louis either but that is not any reason why we should increase these divisions at our expense. In other words, it would be just that much more of a burden for us to bear. Our service is just as great as the Milwaukee or greater in comparison (Tr. 5598).

We don't have to use the C. M. & St. P. or the C. G. W. to get over C. F. A. Territory. That is true of other lines which reach Kansas City from the Southwest and don't reach St. Louis. The point I am trying to bring out is this: We have similar conditions north of the River and similar

conditions south of the River, but it is the lines south that are always standing the difference and I am trying to make it clear that that is what we are doing. It is a very difficult thing to explain but that is a fact. The conditions are the same in one respect but so far as the actual divisions are concerned they are entirely dissimilar for the reason as stated that the Southwestern Lines are standing the whole thing. The Western Trunk Lines certainly have not allowed us enough in some places to do that, and we are having business run around us at different times, business that we have handled for years, wherever they change up the division, why it goes via some other route (Tr. 5599).

We don't have to buy business from the originating carriers. We expect the other carriers to be fair with us, but we are not in the same attitude toward our connections as the Western Trunk Lines are to us, because we realize it won't do us any good. If we expect to get any of the business via these lines we have to meet the allowances made by competing trunk lines in the Southwest, in order to take the [fol. 1193] business via the route through Kansas City and that means a shrink in our subdivision of the revenue south of Kansas City. Now the Southwestern Lines, and as far as I am concerned the Western Trunk Lines, have dealt with this proposition for 40 years and it is very much like water seeking its own level. If we had a large enough division south of Kansas City we would be able to meet the situation and still have a fair revenue for the Kansas City haul. We are not taking anything away from the Western Trunk Lines. They have been taking it away from us for years (Tr. 5600-5601).

Our trouble is not due to the fact that two lines are trying to compete against one line. That is not the trouble at all. It is the peculiarity of having two different groups of railroads in two different territories. Now here's another thing that occurs to me and that is Mr. Towner was asking Mr. Sickel about the divisions from Western Chicago Territory in Iowa and there is a good illustration that we can use to indicate one trouble, I don't call it a trouble particularly, we are not in the attitude of complaining, but the fact is that Chicago Territory starts in just north of Des Moines, Iowa, and reference is made to the fact, I believe, that some of those combinations is as much as 360 and 375 miles from

St. Louis, that being a greater difference than the 209 mile average from Chicago to St. Louis. Now from that identical territory, you take the first point about ten miles north of Des Moines. We allow Chicago division from that point. Your distance from Kansas City to Des Moines is 218 and 220 miles. The distance from the part of the territory cannot be more than 250 miles and yet the divisions to Kansas City on that same stuff going to Shreveport is 40 per cent compared with 30 per cent to St. Louis. It is 30 per cent to [fol. 1194] Kansas City as compared to 20 per cent to St. Louis for the shorter distances (Tr. 5601-5602).

The point I am trying to bring out is that the Northwestern, The Milwaukee, the C. G. W., are not in any different position from what we are in and what I can't understand is why we should always bear the brunt of the thing. That is what I have been trying to make clear. It is true that is argumentative, but I don't know how you would get it over otherwise. The divisional situation of the Southwestern Lines that reach Kansas City but not St. Louis and the Western Trunk Lines which reach Kansas City but not St. Louis is not the same (Tr. 5602-5603).

(The blue-print map described by the witness was thereupon received in evidence as Exhibit A-235.)

[fol. 1195] Cross-examination:

A larger percentage of the Kansas City Southern's traffic originates or finds destination on its line. I should say more than half of it (Tr. 5603).

The lumber divisions were first applied through Thebes on substantially the combination factors to and from the crossing. When the traffic began to move through Kansas City we applied the same divisional basis. That is south of Kansas City. We cut the divisions accepted south of Cairo to the territory east of the Mississippi River. The lines east of Kansas City accepted the same revenue from Kansas City as was accepted north of the Cairo group which of course includes Thebes to the territory in Illinois and Wisconsin. It is true that at the present time the lumber divisions via Kansas City are on a substantial rate prorate based upon the factors that originally went to make up the true rate via Cairo with the exceptions I have

stated, certain Wisconsin Territory on the Milwaukee Line (Tr. 5603-5604).

The Chicago rate was extended to the Milwaukee by the C. M. & St. P. Railroad. By reason of the fact that the Milwaukee put the Chicago rate and divisions into Milwaukee at such necessary intermediate points to that extent the Chicago divisions apply to Milwaukee. Our executive officer at the time, Mr. Caulkins, I believe, took it up with our executive officer and it seems that the Milwaukee had some kind of an agreement with the Milwaukee people that they were to put in the Chicago rate to Milwaukee. Our executive officer probably felt that since they were going to take the Chicago division there wasn't any reason why he should particularly object to the executive officer of the Milwaukee completing that arrangement. It was Mr. Keeley instead of Mr. Caulkins. Mr. Caulkins used to sit in occasionally and help things with reference to [fol. 1196] these rates and divisions on lumber up in Iowa. At that time he was Assistant General Freight Agent of the Milwaukee and was very well informed on rates and divisions (Tr. 5604-5605).

Beginning on page 224 of the record, Mr. Buhrle mentioned several of the Kansas City Southern Division Sheets that he had been unable to get copies of and I will now furnish the copies.

Mr. Towner: I will waive the copies if I can have the list.

The Witness: I will give you the list.

Mr. Davis: The list which you are furnishing, Mr. Mills, will show the actual division sheets which will cancel many of the division sheets called for by Mr. Buehrle, will they not?

A. Yes, sir (Tr. 5605-5606).

(The division sheets referred to by the witness were thereupon received in evidence as Exhibit A-236.)

[fol. 1197] CHARLES W. MORROW was thereupon called as a witness and testified as follows;

Direct examination:

I am Chief Divisions Clerk in the General Freight Office of the Texas and Pacific Railway at Dallas, Texas, having been with the Company since September, 1924. Previous to that time I was in the General Freight Department of the Alabama and Vicksburg and the Vicksburg, Shreveport and Pacific Railway from July, 1917, with the exception of one year during the period of Federal control. During that year I was in the General Freight Office of the L. & N. Railroad at Louisville (Tr. 5607).

The investigation of divisions, initiated by the Commission in I. C. C. Docket No. 15234, brings in the question of inclusion or exclusion of Texas & Pacific Railway local stations situated on the Port Allen and Indian Village branches and on the main line from Addis to Gouldsboro, La., inclusive, or the stations from and to which both rates and divisions were originally established on basis of rates from and to New Orleans, La. (Tr. 5607-5608).

By agreement between the Western Trunk Lines and the Southwestern Lines, New Orleans, La., proper, and points on the west bank of the Mississippi River within the switching or port limits of New Orleans were excluded from the case. Because of change in rates from the New Orleans basis to the interior Louisiana basis, the Southwestern Lines have declined to exclude those points on the main line and branches of the Texas & Pacific Railway outside and north of the recognized New Orleans switching or port limits, hence the necessity for the consideration of divisions from and to such stations. For convenience, reference is made to Official List of Open and Prepay Stations, No. 35, issued by F. A. Leland, Agent, his I. C. C. [fol. 1198] No. 1796, effective January 15, 1926, in which the T. & P. Ry. Louisiana stations now involved are listed opposite Items Nos. 1660 to 2028, inclusive, 2580 to 2905, inclusive, and 2920 to 2975, inclusive. These are main line stations from Addis to Bogarts, inclusive; Port Allen branch stations from Olivia Plantation to N. O. & N. W. connection, inclusive, and Indian Village branch stations from Schwing's Spur to Miller's Spur, inclusive. The Texas & Pacific Railway Company also desire the inclusion of its main and branch line stations in Louisiana,

from which rates are now based in relation to rates from New Orleans (Tr. 5608-5609).

Although the matter of dividing rates on traffic from and to New Orleans proper, is not now within the scope of the investigation, the reasonableness of the New Orleans divisions is questioned insofar as the basis is applicable for dividing rates from and to the T. & P. local stations hereinbefore designated. The Commission's decision in the Barge Line Case, 11893, 77 I. C. C. 317, expressed at Page 358, implies that rail carriers are not fairly entitled to divisions where same have not been largely determined by the relative amount and cost of service rendered, but obtained in substantial part by considerations extraneous to the service, such as the protection of the long haul, diversion of the traffic to other gateways, etc. It follows that in order to determine whether or not divisions are just, reasonable and equitable, it must be found, among other things, just what relationship the divisions have to the rates that would be divided, and just what brought about the measure of the division. This requires some knowledge of the rates themselves and the reason for their being; therefore, I will endeavor to give an outline of my investigation of the history of the basic rates obtaining at the present time (Tr. 5609).

[fol. 1199] As is well known, the prevailing rates to and from Texas & Pacific Railway stations in Louisiana, Bogarts and north, resulted from re-adjustments of rates in compliance with the Commission's orders in Memphis-Southwestern Investigation, Docket 9702, 55 I. C. C. 515, in conjunction with rates to, from and between points South of the Ohio River, including the Mississippi Valley, I. & S. Docket No. 1303, 64 I. C. C. 307. Present rates to and from New Orleans were established on the so-called dry-land basis under orders of the Commission in the I. & S. proceedings. Prior to the establishment of the dry-land basis, effective April 1, 1922, the rates to and from New Orleans reflected the rates of the original adjustment that was made many years before by joint committee action; and, in turn, the rates to and from the Louisiana points on the Texas & Pacific Ry., Ferriday and south, through Addis to Gouldsboro, were on this water-compelled basis. In the division of these Louisiana points rates lines beyond the

Ohio and Mississippi River crossings, and beyond the Missouri River, received New Orleans revenue, while other or interior Louisiana points were on the Texas basis of divisions, excepting such points as were in what was known as Shreveport-Alexandria group. With respect to the latter: departure had been made from the original Texas basis of divisions, due to the peculiar construction of the so-called triangle rates, fully explained in the Memphis-Southwestern proceedings (Tr. 5609-5610).

By a glance at the map of the Texas & Pacific Railway, which I now present as Exhibit A-237, the proximity of Southern Louisiana stations to the Mississippi River can be readily seen and it is evident that with such proximity, the Texas & Pacific Railway could not possibly carry rates higher than those of the steamboat lines to and from the points served commonly by rail and by water (Tr. 5610-5611).

[fols. 1200-1200½] (The map described by the witness was thereupon received in evidence as Exhibit A-237.)

[fol. 1201] We know that New Orleans basis of rates applied to the T. & P. Ry. local stations, Addis and south, as early as November 27, 1890, and probably before, as records contain copy of Wabash Tariff No. 3873, effective on the date named, publishing that basis. Therefore, the same compelling forces and controlling influences prevailed alike at New Orleans and at the river points served by the Texas & Pacific Railway, and the history of the Mississippi Valley rate adjustment fully covers all. The history of the Mississippi Valley rate adjustment has been given on more than one occasion and is familiar to the Commission. In the matter of applications for relief under the long and short haul provision of the Act to Regulate Commerce, as amended June 18, 1910, filed on behalf of the Mississippi Valley lines, a very comprehensive history of water transportation in the Mississippi Valley was introduced for the purpose of showing to what extent the freight rates of the rail carriers were influenced by water competition. The result was the continuation of the Mississippi River points rates under the permission granted by the Commission's Fourth Section Order, No. 3866 (Fourth Section Violations in the Southeast, 30 I. C. C. 153), the Commission finding

at that time, about 1911, actual and potential water competition sufficient for the rail lines to take into consideration in the establishment of rates (Tr. 5611-5612).

The history mentioned began with the discovery of the Mississippi River by DeSoto and the early navigation by white settlers, including an account of the first recorded freight shipment about 1705. Steamer navigation upon western waters began with the "New Orleans," which left Pittsburgh on October 20, 1811, and reached the City of its name in January, 1812. Accounts of the development of transportation prior to the Civil War were recited, including the building of railroads, as well as the operation of [fol. 1202] steamboats, and a resume of conditions under which the Mississippi Valley rates were established may enable the determination of divisions properly applicable to the present adjustment (Tr. 5612).

During the period of river navigation prior to 1858, there was little if any uniformity in rates or in service, but in 1858 there was an arrangement made between the owners of the steamers operating the Mississippi and Ohio Rivers by which a regular service was established and by which rates on freight were arranged on uniform basis among themselves and with the railroads serving the interior markets and territories. St. Louis, Mo., having developed into a town of importance, the Company operating the "Railroad Line," or the St. Louis & New Orleans Packet Company, placed in the service ten of the largest and finest steamers then on western waters, and arrangements were made with the Illinois Central Railroad at Cairo, and with the Ohio & Mississippi Railway at St. Louis, by which passengers and freight were contracted to all points reached by either line or boats (Tr. 5612-5613).

A similar line, composed of ten steamers, was run from Louisville to New Orleans, same being known as the "Lightning Line." Like arrangements were made by this Lightning Line with its existing railroad connections. At Cincinnati a good line was organized on the same basis as the Louisville & New Orleans line, it being known as the Cincinnati and New Orleans Express Line, and was also composed of ten boats. These were what was known as "short" boats and could pass the locks in the Louisville Canal. A year later, or in 1859, there was organized to run

between St. Louis and Memphis, a line of boats known as the Memphis & St. Louis Packet Co. This line was in addition to the "Railroad Line" and was finally merged into the St. Louis and Vicksburg Line. As the railroads extended their lines south, this packet company gradually [fol. 1203] withdrew from the Memphis territory and extended their line to New Orleans, running part of their boats to Vicksburg and part of them to New Orleans under the style and name of "Anchor Line" (Tr. 5613).

Such rail lines as existed at the time these boats were operated were forced to adopt the water rates, or else go out of the traffic, and the boats not only fixed the rail rates between ports but set the rates from the river crossings to the interior. By this means the Louisville basis of rates was extended to St. Louis and the Louisville-St. Louis relationship has been maintained even down to the present day. (See I. & S. 1303, 64 I. C. C. 307 at Page 314.) In passing it might be well to note that situation of Louisville at the Falls of the Ohio had established that place as a pivotal or basing point long before St. Louis became a river town of importance. The Civil War of 1861-1865 disrupted the transportation systems of the entire south, both railway and water, but immediately after the close of the war, according to the authorities, there was great activity among the boats and among the railroads for the re-establishment of transportation. The steamboats and railroads co-operated in this effort to bring about reconstruction and as early as 1870 the railways and steamboats entered into joint traffic agreements for the establishment of through rates between river points and points in the interior. It would appear that these traffic agreements did not at first provide for fixed differentials under all-rail rates in the establishment of port to port rates, but made provision for the division of the business only. This is evidenced by the fact that on first all rail shipment from St. Louis to New Orleans, same consisting of large consignment of flour that moved in 1871 via St. L. I. M. & S. Ry., M. & O. R. R. and what is now L. & N. R. R., the boat rate of 75 cents per barrel was assessed (Tr. 5614-5615).

[fol. 1204] At a later date the competition of the boat lines forced the rail carriers into an agreement whereby the boat lines were conceded certain fixed differentials under the rail rates applied from the Ohio River crossings and

St. Louis to the lower Mississippi River crossings and Gulf ports. In one of the hearings held by the Commission at New Orleans, in the application for relief from the long and short haul provision of the Act, Witness Compton filed, as his Exhibit No. 6, copy of memorandum of agreement made at Cincinnati, October 25 and 26th, 1877, between certain boat lines and railroads whereby the boat lines were accorded differentials from 35 cents per 100 pounds on first class to 5 cents per 100 pounds on fifth class, there being only five classes at the time, under the all-rail rates from Cincinnati to New Orleans. As the number of railroads increased, the competition was intensified, and the rivalry between localities also increased as the towns and cities became business centers of importance. Pittsburgh and Chicago competed for the sale of manufactured iron articles, while Cincinnati and Chicago were rivals for trade in other manufactures, both Louisville and Cincinnati competing with St. Louis and Chicago, and between themselves, for the business of the lower Mississippi Valley (Tr. 5615).

These conditions brought about the group relationship of rates, and as the entire territory north of the Ohio River, including the cities on that stream, were in strong competition with Eastern Seaboard cities served by both rail and water carriers to the Gulf ports, the rates established were necessarily low. It followed, naturally, that direct lines of rail carriers could set the all-rail rates, in relation to the circumstances and conditions under which rates could be operated, thus what is now the Illinois Central Railroad became the most important rail factor in the Mississippi [fol. 1205] Valley, having the short line from Chicago to New Orleans. In sequence, the tonnage flowed to this line of road and enabled it to control the largest volume of traffic moving to and from the Valley. Likewise, as rate-making line, the Illinois Central was in position to make the divisions of joint through rates, and was no doubt responsible for all the freight rate divisions now operated on present Illinois Freight Association and Western Trunk Line territories traffic to and from the Mississippi Valley. Long before the New Orleans line of the Texas & Pacific Railway was thought of, the river steamers served the various river landings on the west bank of the Mississippi River, from Ferriday to Gouldsboro, La., and when the line of railroad was built from Gouldsboro, up the west bank of the Mis-

sissippi River, the New Orleans basis of rates as fixed by the steamers was found already made for operation by the railroad if it intended to participate in the freight traffic to and from the competitive river towns, and even the adjacent points not actually situated on the Mississippi (Tr. 5616-5617).

This adjustment existed at the very beginning of the establishment of rates by the T. & P. Ry. in about 1883, and was continued until April 1, 1922. Likewise, in the division of all-rail rates to the T. & P. Ry. local stations, the same influences that caused the establishment of New Orleans rates caused the operation of the New Orleans divisions. In the extension of the Port Allen branch to Ferriday, about December, 1903, the New Orleans rates and divisions were automatically extended to the new stations which were also served by the water carriers. During the long period of time when the so-called Mississippi Valley adjustment was in its formative stages, and subsequently until the decision of the Commission in the Memphis-Southwestern case holding that the water competition was no longer controlling with respect to the river-point rates, the adjustments in [fol. 1206] interior intermediate territory, both in the Mississippi Valley and in the Southwest, was never directly affected by the level of rates fixed at the river points in competition with steamboats plying the Mississippi, because a liberal measure of fourth section relief had always been accorded against the low river-point rates (Tr. 5617).

Under those conditions the low river-point rates were not and could not be used in any direct way to measure the rates to the interior intermediate points, nor were the divisions to the intermediate points in any way in relation to those applicable to the New Orleans rate points; but, as previously mentioned, the interior local points were on Texas percentage basis with exception of particular points in the Alexandria-Shreveport group. Again with reference to the latter points; attention is called to the fact that under present adjustment of rates the old Shreveport-Alexandria-Monroe triangle has disappeared and the reasons for the divisions in relation to the triangle rates no longer exist. In consequence, we have no Shreveport-Alexandria group divisions that have, to quote the Commission's language, "been largely determined by the relative amount and cost of service rendered, but obtained in substantial part by con-

siderations extraneous to the service, such as the protection of the long haul, diversion of the traffic to other gateways, etc." Getting back to the rates, themselves, now that reason for their being has been found, I will name the basic rates of the Mississippi Valley adjustment that was of such long duration, or the rates maintained from time of original establishment by joint committee action until superceded by the "dry-land" basis fixed by the Commission, effective April 1, 1922 (Tr. 5617-5618).

As it is well recognized that commodity rates are established for the purpose of moving the traffic, "carriers being [fol. 1207] willing to accept low rates rather than to receive no revenue at all," to quote in effect Commissioner Eastman, in Southern Class Rate Investigation, I. C. C. Docket 13494, I will deal with the class rates only, as it is also a well recognized principle that class rates contain all the elements of cost and service and represent full 100 per cent of such value. Classes E, H and F being obsolete, the first two covering beer and whiskey and the latter being rating on flour, in barrels, now rated Class C, I am showing only the first ten classes, as governed by Southern Classification ratings (Tr. 5618-5619).

Although rates were in effect for many years prior to August and October, 1896, tariffs covering were not available, but tariffs of that time will suffice. Joint Freight Tariff I. C. C. No. 22, effective August 15, 1896, issued by The Southern Freight Association, contained the following rates, from St. Louis, Mo. and East St. Louis, Ill., to New Orleans, La. Class 1, 90 cents per 100 pounds; Class 2, 75 cents; Class 3, 65 cents; Class 4, 50 cents; Class 5, 40 cents; Class 6, 35 cents; Class A, 25 cents; Class B, 25 cents; Class C, 25 cents; Class D, 20 cents. As before stated, Louisville-St. Louis rates were basic and to make rates from other origins differentials were added to the Louisville-St. Louis rates. Such rates were published from Chicago and from Milwaukee, the former on scale of 20 cents, first class, graduating down to 6 cents, class D, while Milwaukee rates were made by adding to the Chicago rates, 6 cents first class with graduation down to 2 cents at Class D (Tr. 5619).

The rates so constructed and published in Mississippi Valley Freight Committee Joint Freight Tariff No. 1, I.

C. C. Advice B-46, effective October 1, 1896, were: From [fol. 1208] Chicago—Class, 1, $1.10 per 100 pounds; Class 2, 90 cents; Class 3, 75 cents; Class 4, 58 cents; Class 5, 47 cents; Class 6, 41 cents; Class A, 31 cents; Class B, 31 cents; Class C, 31 cents; Class D, 26 cents. From Milwaukee—Class 1, $1.16 per 100 pounds; Class 2, 95 cents; Class 3, 79 cents; Class 4, 61 cents; Class 5, 49 cents; Class 6, 43 cents; Class A, 33 cents; Class B, 33 cents; Class C, 33 cents; Class D, 28 cents.

The rates to New Orleans also applied to points on the Texas & Pacific Railway, as specified in tariffs, these stations being situated on the line paralleling the Mississippi River from New Orleans to Port Allen, via Addis, La.

In the division of the rates from Milwaukee, the lines north of Chicago received a proportion of 10 per cent and the remainder was sub-divided over East St. Louis by first deducting 2 cents for Cairo bridge toll, which accrued to lines south, and allowing lines north of East St. Louis 33 per cent. Available files do not show how the divisions were arrived at. In the division of Chicago to New Orleans rates, that's the basis used to our local stations, the lines north of East St. Louis received 33 per cent, after deduction of 2 cents Cairo bridge toll for southern lines (Tr. 5620).

Available files do not indicate how this division was arrived at, but it so happens that Cincinnati to New Orleans divisions over East St. Louis are exactly the same, and the construction of the latter was on basis of short-line distances of 340 miles east of East St. Louis in conjunction with I. C. R. R. short-line distance of 700 miles from East St. Louis to New Orleans. In any event the Chicago division represents 340 constructive miles for the lines north, although short line distance of C. & A. Ry., as shown in its Distance Tariff, I. C. C. A-1455, is 278.5 miles.

A statement showing the short-line distances was there-
[fol. 1209] upon offered in evidence as Exhibit A-238 (Tr. 5621).

(The statement referred to was thereupon received in evidence as Exhibit A-238.)

[fol. 1210] The average distance from Chicago to East St. Louis, using the lines of the C. & A., C. & E. I., C. B. & Q.,

I. C. and Wabash, direct lines, is only 297 miles, while the average distance from East St. Louis to New Orleans, using eleven practicable routes over which traffic now moves in volume, is 808 miles. It is thus evident that divisions north and south of East St. Louis were not constructed on basis of average distances for all routes, but indicates that short-line, I. C. R. R., was instrumental in the fixing. Likewise, Springfield has a constructive distance of 300 miles from East St. Louis, as compared by 700 miles, short line, south of East St. Louis, as the lines north receive 30 per cent on Springfield to New Orleans traffic. These points are only representative of the divisions operated as full line of percentage divisions are published by the C. & A., C. B. & Q., and other roads engaged in the New Orleans business (Tr. 5621-5622).

With the exception of Class B, rates were maintained as constant until June 25, 1918, at which time an increase of 25 per cent was made under authority of General Order No. 28, of the United States Railroad Administration. Again, on August 26, 1920, a further increase was granted by the Interstate Commerce Commission, in Increased Rates, 1920, (Ex Parte 74), 55 I. C. C. 220. The rates so increased were continued until April 1, 1922, when cancellation was made in compliance with the Interstate Commerce Commission's order of November 15, 1921, as amended, in Investigation and Suspension Docket No. 1303, 64 I. C. C. 306. The new rates to New Orleans were upon so-called "dry-land" basis, as the Commission held that water competition was no longer controlling with respect to the river point rates; and under the Commission's decision the Texas & Pacific Railway was at that time prohibited from participating in the [fol. 1211] New Orleans rates, unless the Mississippi River point rates were to be applied as maxima at the intermediate points. Inasmuch as that would have meant substantial revenue losses to the Texas & Pacific Railway and other Southwestern Lines, and the Southwestern carriers being in no condition to stand such revenue losses, it became necessary for the west-side lines to go out of the New Orleans traffic. At this time rates to the Texas & Pacific Railway local stations, Ferriday and south, were changed to the interior Southwestern adjustment, under I. C. C. Docket

9702, in order to conform to the Commission's decision. The rates to the local stations now involved for the first time appeared in a Southwestern tariff, being published in S. W. L. Tariff No. 58-M, Agent F. A. Leland's I. C. C. No. 1086, effective April 1, 1922. It was thus that relationship ended between the Texas & Pacific Railway local stations and New Orleans (Tr. 5622-5623).

While it is true that all rates in the Mississippi Valley have been placed upon a dry-land basis, no lower rate being permitted to the river points than to the interior intermediate points, distance considered, the Commission found that Southwestern carriers were in no condition to operate a level of rates prescribed for the Mississippi Valley lines in the readjustment of the dry-land basis. In consequence, the Commission's Fourth Section Order No. 7542, amended by orders, the latest dated July 1, 1925, permitted to a limited extent the operation of routes west of the Mississippi River, and this fourth section relief to the Southwestern carriers, in the participation in rates to and from New Orleans, is indicative that rates which might suffice for the Illinois Central Railroad and other strong lines serving the Mississippi Valley, did not meet the requirements of the Southwestern carriers. In the first place, the Illinois Central has long enjoyed a volume of traffic much greater per [fol. 1212] mile of road than the average density in southwestern territory, and the financial condition of that road is, of course, very much stronger than that of the average southwestern line (Tr. 5623-5624).

In the second place, as is shown by the tonnage statistics presented by all carriers at the instance of the Commission, in I. & S. 1303, the Illinois Central was shown to be, and probably will continue to be, the chief participant in traffic to the large cities located on the Mississippi River. The traffic handled by the southwestern lines to these river points, the principal one of which is New Orleans, while important, is small by comparison with that handled by the Illinois Central. In the Mississippi Valley case, above referred to, it was shown that traffic density of the Illinois Central System was 266.7 per cent of the traffic density of the entire southwestern lines as a whole. The official re-

ports of the Louisiana Public Service Commission, extract of which I wish to present as Exhibit No. 239, covering operating statistics of railroad operated in the State of Louisiana during the years of 1923 and 1924, serve further to show the disparity (Tr. 5624).

(The statement described by the witness was thereupon received in evidence as Exhibit A-239.)

[fol. 1213] Although the Illinois Central Railroad (not including the Y. & M. V. R. R.) operates an average mileage of road of 88.14 miles against 782.66 like mileage of the Texas & Pacific Railway, the freight revenue for the average per mile of road of the Illinois Central R. R., in the year ended December 31, 1923, was $29,697, while like revenue of the Texas and Pacific Railway was $9,209. For the year ended December 31, 1924, the comparative figures were: Illinois Central R. R. $30,756, and Texas and Pacific $8,760. The total tons of revenue freight for the year ended December 31, 1923, of the Illinois Central Railroad, was 5,149,290, while that of the Texas and Pacific Ry. was 4,000,390; and for the year ended December 31, 1924, the total tons of revenue freight were: Illinois Central R. R. 4,708,026, and Texas & Pacific 4,036,464. The ton miles of revenue freight, average per mile of road, for the year ended December 31, 1923, were Illinois Central R. R. 4,548,541 tons, Texas & Pacific 586,252 tons. For the year ended December 31, 1924, the Illinois Central R. R. ton miles of revenue freight, average per mile of road, was 4,206,733 tons against Texas & Pacific 596,111 tons. It will be noted that while Illinois Central R. R. tonnage decreased slightly, and at the same time Texas & Pacific Ry. tonnage increased to some extent, the disparity in the density is self-evident. It will also be noted that statistics are based upon an average haul of 77.86 miles for the Illinois Central R. R., for the year ended December 31, 1923, and an average haul of 114.7 miles for the Texas and Pacific Ry. during same period (Tr. 5624-5625).

I have picked out the tonnage statistics. That is what I was after. The last line which shows that in 1923 the Illinois Central ratio of expense to revenue is what they reported to the Louisiana Public Service Commission. I haven't any idea whether it is correctly reported because

[fol. 1214] I don't know anything about it. I am not vouching for these figures. They are just from the official reports to the Louisiana Public Service Commission. I know the Texas & Pacific tonnage is correct. I had that verified. I don't know anything about the I. C. Railroad. The exhibit states where I got the figures. The per ton mile earnings of the I. C. Railroad compared with the T. & P. Railway are as follows: December 31, 1923: L. C. Railroad 6.53 mills, T. & P. Railway 15.71 mills; December 31, 1924: I. C. Railroad 7.31 mills, T. & P. Railway 14.69 mills (Tr. 5626-5627).

These Louisiana statistics, in conjunction with those presented by the carriers in fourth section applications, covered by F. S. O. 7542, in which it was found that in 1921 the I. C. Railroad revenue tons per mile of line were 2,309,489, as compared with 820,714 for the west-side carriers, makes it clear that the Illinois Central is the predominating influence in the Mississippi Valley adjustment, and was responsible for the depressed rates that prevailed for so many years, being able to operate such depressed rates profitably by reason of the large volume of traffic it enjoyed. Such being the case it is logical to conclude that divisions fixed by the Illinois Central Railroad, to suit its own needs, do not meet the requirements of the southwestern carriers, or in other words, to again use in part the language of the Commission: "The (Western Trunk Line) carriers are not fairly entitled to divisions where same have not been largely determined by the relative amount and cost of service rendered, but obtained in substantial part by considerations extraneous to the service, such as the protection of the long haul, diversion of the traffic to other gateways, etc." This also applies to the division of rates from Interior Louisiana points, and from Texas Gulf Ports, where the New Orleans basis of [fol. 1215] rates must be operated under forces of necessity, such as observance of fourth section, commercial conditions that require maintenance of rates crystalized in the old adjustment, etc., as explained by other witnesses in this case (Tr. 5627-5628).

These interior Louisiana points to which I have referred now take the 9702 basis of rates. One of my positions is that in view of the position of the Illinois Central Rail-

road, these interior Louisiana points should not be treated as stations on the Illinois Central Railroad. They should be treated as stations in Southwestern Freight Bureau Territory where the rates, generally speaking, are on a much higher level than in this Mississippi Valley (Tr. 5628).

C. C. DANA was thereupon recalled as a witness and testified as follows:

Direct examination:

As I recall during the progress of my previous testimony there was a suggestion to the effect that as the distance increased the revenue and rate per ton mile decreased and the thought at least conveyed was that that was universally the case. Now that may be true as to the progression of rates in a territory where transportation conditions are similar, cost of service is the same and the rate levels are the same, but when you project a rate across the boundary lines of distant groups it will be found that that statement is not correct. As an illustration of that I want to offer my Exhibit No. A-240. The distances on this exhibit are taken from Mr. Parson's Exhibit A-77. In the first block there Chicago to East St. Louis, I have used the distance of the Chicago & Alton instead of the group basis for Chicago and Northern Illinois points because of the fact [fol. 1216] that there are included in Mr. Parson's Chicago and Northern Illinois Group many point which take a lower basis of rates to East St. Louis than does Chicago, and consequently I was forced to go to Chicago as my base point (Tr. 5628-5629).

It will be noted in the last column that the average revenue per ton in cents based upon the average of the ten class rates is 2.717 cents. In the next block, Chicago to Little Rock, Ark., via East St. Louis for a distance of 632 miles it will be noted the revenue per ton mile in cents based on the average ten class rates is 3.245 cents, approximately 5 mills per ton mile greater for the greater distance than is the average revenue per ton mile Chicago to East St. Louis. Following on down through via the East St. Louis route you will note the fourth block, Chicago to Okla-

homa City via East St. Louis, a distance of 825 miles where the average revenue per ton mile in cents is 2.979 cents as compared with 2.71 cents Chicago to East St. Louis. Those are through class rates. The same is true of Chicago to Ardmore via East St. Louis. That is to say that the revenue per ton mile is greater for the through haul than for the short haul and it is not until you get to Chicago, to the balance of Texas Common Point Territory via East St. Louis that you find a revenue per ton mile in cents which falls below the revenue Chicago to East St. Louis. Via Kansas City the same situation obtains, that is to say that the revenue per ton mile in cents for the greater hauls is in excess of the revenue per ton mile in cents for the haul from Chicago to Kansas City. And that is true notwithstanding the fact that the high level of rates are reduced because of the fact rather that the high level of rates south and west of East St. Louis or south and west of Kansas City is projected across the boundary line into Western Trunk Line Territory (Tr. 5630-5631).

[fol. 1217] Now I might have found other examples similar in character outside of the territory under discussion. The same situation is true with respect to the rates Chicago to the Missouri River as compared with the rates Chicago to Colorado Common Points, using the average distance from Chicago to the Missouri River of 500 miles and the average distance between the Missouri River and Colorado Common Points of 639 miles, both of which are the generally accepted averages for the distances in question. It is also true of the rate from Chicago to the Missouri River as compared with the rates from Chicago to Utah points—Utah Common Points, using the distance of 488 miles to Omaha and 990 miles, which is the Union Pacific's mileage from Omaha to Salt Lake City. During Mr. Press' testimony it was suggested by Mr. Towner as I recall it that the E. J. & E. had no place in the statements or exhibits which he presented. The E. J. & E. while it may be called a belt line, is so called in fact, is shown such cities as Waukegan, Elgin, Joliet, Chicago Heights, South Chicago all in the State of Illinois in addition to Gary, Ind., and other points across the Illinois-Indiana state line. It handles in connection with other Western Trunk Lines considerable traffic to and from these points of origin on

its line and it receives a percentage proportion of the proportion east of Kansas City or north of East St. Louis for its service, and there is no more reason why it should be excluded from the list of lines operating in Western Trunk Line Territory than any other road haul carrier (Tr. 5631-5632).

It may be possible to arrive at some general equation for the purpose of determining whether or no the present division of the aggregate revenue on all of the traffic as between the Western Trunk Lines as a whole and the Southwestern Lines as a whole is just and reasonable, but because [fol. 1218] of the many varying elements which should be taken into consideration in determination of just and reasonable division per se, it would be wholly impracticable and would result in grave injustice to apply such general equation to the divisions from or to any particular territory. The factors which originally fixed the divisions for Arkansas, Oklahoma, Louisiana and Texas were not the same nor are they now, from which it follows: should the Commission decide some change is necessary as to divisions between the various origin and destination territories must be considered on their respective merits (Tr. 5632).

(The statement described by the witness was thereupon received in evidence as Exhibit A-240.)

[fol. 1219] Cross-examination:

I thought the E. J. & E. served Elgin. I am willing to be corrected on that point. I cannot say whether the E. J. & E.'s principal business is that of the belt line in Chicago. I have never seen any segregation of the traffic; but if it were, it handles this traffic to and from C. F. A. Territory as a participating carrier with the Western Trunk Lines (Tr. 5632-5633).

(Here the Examiner inquired whether there was any more evidence on the part of the Southwestern Lines. Attorney Towner stated that he would have some evidence in rebuttal for the Western Trunk Lines and a further hearing at a future date was fixed by the Examiner.)

[fol. 1220] Chicago, Illinois, May 6, 1926.

Met pursuant to adjournment.

Examiner Disque called the hearing to order, stating that it was the final hearing in Docket No. 15234 (Tr. 5638).

B. F. PARSONS was thereupon recalled in rebuttal and testified as folows:

Direct examination:

At the previous hearings at Chicago and Galveston exhibits were introduced showing the general operating results of the Western Trunk Line and the Southwestern Lines, together with various traffic and operating statistics. To bring these exhibits down to date, I have prepared exhibit No. A-241 consisting of 19 pages. The first page is the cover. On page 2 are shown the railway operating revenues and expenses, net railway operating income and rate of return for the year ended December 31, 1925, as shown by reports of the individual carriers to the Interstate Commerce Commission. The grouping of lines as shown on this and succeeding pages of the exhibit is the same as shown on page 5 of exhibit A-54.

On pages 3, 4 and 5 are shown the railway operating revenues and expenses, net railway operating income, rate of return and freight revenues and expenses for the calendar years 1922, 1923, and 1924. This is similar, subject to certain corrections that have been made, to the corresponding data shown on page 2 of exhibit A-54, except that I have added the property investment, materials and supplies and cash as of the beginning of each year and have shown the rate of return. There is also shown for the years 1922 and 1923 the miscellaneous freight service revenue, which was not included in exhibit A-54 (Tr. 5638-5639).

[fol. 1221] Page 6 shows averages per mile of road for the year 1925 computed from the date on page 2. Pages 7, 8 and 9 are similar averages for the years 1922 to 1924 computed from the data on pages 3, 4 and 5. On pages 10 to 13, inclusive, are shown the property investment and net railway operating income of the individual carriers for the years 1922 to 1925, inclusive. Property investment in each case is shown as of the beginning of the year and the rate of return as shown on pages 3 to 5, inclusive, is computed on that basis. In Southwestern Lines Exhibit A-124 the rate

of return, except for the year 1925, is computed on the property investment at the close of the year. As additions and betterments made in any year are available for use only during a portion of the period in which the net railway operating income of that year is earned, it would appear that the investment in the property -t the beginning of the year rather than at the close affords the better basis on which to compute rate of return. This is the method followed in the carriers' exhibits in Ex Parte 87, as shown in Mr. Wettling's Exhibit 1, where in each case he has computed rate of return on basis of the property investment at the beginning of the year, and this is the plan followed by the Bureau of Railway Economics in their monthly and yearly bulletins of Railway Revenues and Expenses (Tr. 5639-5640).

Page 14 is a statement of railway operating revenues and expenses by individual roads for the calendar year 1925. On page 15 are shown for the year 1925 the freight revenue, ton miles revenue freight, revenue per ton mile and averages per mile of road. On page 16 are the details for each road from which the data shown on page 15 was compiled. On page 17 I have shown for the years 1922 and 1923 the miscellaneous freight service revenue. This data was not shown in exhibits A-52 and A-53 and is included here to [fol. 1222] complete the statistics for those years. On pages 18 and 19 I have set out certain corrections found necessary in my exhibits A-52, A-53 and A-54. In the course of his testimony at pages 4953 and 4955 of the record Mr. Press pointed out certain errors or omissions in the data in my exhibits. On these pages I have made appropriate corrections. In exhibit A-52 for the year 1923 the freight revenue of the M-K-T was shown as $20,522,029. This omitted the freight revenue for the first three months of the year of $5,200,000 (Tr. 5640).

In the same exhibit there was omitted from the tons and ton miles of revenue freight of the Chicago & Alton Railroad certain lapover figures which have not been included. In exhibit A-53 for the year 1922 there was an error in stating the freight revenue of the M-K-T Railroad of Texas. It was shown in the exhibit as $14,002,696 and should have read $14,602,696. These three corrections result in the changes in the averages shown on Pages 18 and 19 of this exhibit. Mr. Press also called attention to a slight differ-

ence in the freight revenue of the K. C. M. & O. Railroad and K. C. M. & O. Railway of Texas for the year 1923, as shown on page 26 of his exhibit A-124 and page 3 of my exhibit A-52. The amount shown by Mr. Press is $3,231,241 while I have used $3,233,086, a difference of $1,845. The figures I have used agree with those shown in the Interstate Commerce Commission's Thirty-seventh Annual Report on the Statistics of Railways in the United States for the year 1923. The difference is so slight as to have no appreciable effect upon the showing for the year. The data shown in exhibit A-241 will supersede entirely my exhibits A-55, A-78 and A-79 and will be substituted for the corresponding data in Mr. Balch's Exhibit A-50 and my Exhibit A-54 (Tr. 5641).

The exhibit of financial, operating and traffic statistics [fol. 1223] of the Southwestern Lines, Exhibit A-124, introduced by Mr. H. W. Press at Galveston February 5, 1926, includes in the Western Trunk Line Group the Duluth, South Shore & Atlantic Railway; Elgin, Joliet & Eastern Railway; Green Bay & Western Railroad and Lake Superior & Ishpeming Railway. These four roads are not respondents in this proceeding and I have not included them in my exhibits. The character of traffic on these roads and the nature of their operations is such that we do not believe they should be included in any exhibit intended to reflect conditions in Western Trunk Line Territory as defined in this proceeding. The Duluth, South Shore & Atlantic Railway extends from Duluth, Minnesota, to Sault Ste. Marie, Michigan, across northern Wisconsin and the Upper Peninsula of Michigan. In 1924 its operated mileage was 591.30. Its principal traffic consists of ore to the docks on Lake Superior and of forest products moving locally within its own territory. In 1924 the commodities transported by this road were:

Iron ore	1,327,123 Tons—	31.05 per cent
Other products of mines, principally sand, gravel and stone, and coal from Lake Superior docks	574,054 Tons—	13.43 per cent
Products of forests, the greater part of which consisted of logs and pulp wood	1,775,802 Tons—	41.55 per cent
Other carload freight and all L. C. L. freight	596,881 Tons—	13.97
Total Revenue Freight	4,273,860 Tons	100.00%

(Tr. 5642-5643.)

The Elgin, Joliet & Eastern Railway extends from Porter and Gary, Indiana to Waukegan, Illinois. It has a very heavy traffic to and from the steel mills and other industries on its rails, in addition to a large interchange traffic between eastern and western roads. Its operated mileage in 1924 [fol. 1224] was 459.77. Of the total tons of revenue freight carried in 1924, amounting to 29,558,259, 16,158,796, or 54.67 per cent, consisted of products of mines, mostly coal, coke and stone, going to the steel mills at Gary and South Chicago. It handled a total of 418,090 carloads of revenue freight, of which 210,970, or 50.46 per cent, were received from connections. By far the greater part of this was through business on which the revenue of the E. J. & E. Railway was a fixed car haul allowance, half of which is paid by the eastern lines and half by the western lines. The Green Bay & Western Railroad extends across central Wisconsin from Green Bay to Winona, Minnesota. Its operated mileage in 1924 was 234.15. Its traffic is of a somewhat general character. The principal commodities carried are products of mines and products of forests, namely:

Products of mines, principally bituminous coal from Lake Michigan docks and car ferry connections	266,411 Tons—	29.91 per cent
Products of forests, over half of which consisted of logs and pulp wood	138,385 Tons—	15.53 per cent
Other carload freight and all L. C. L. freight	486,084 Tons—	54.56 per cent
Total revenue freight	890,880 Tons—	100.00 per cent

(Tr. 5643-5644.)

The Lake Superior & Ishpeming Railway is located in the Upper Peninsula of Michigan and is predominately an ore carrying road. Its operated mileage in 1924 was 161.51. Its freight traffic consisted of the following:

Iron Ore	1,920,946 Tons—	64.32 per cent
Other products of mines, principally dock coal, sand and gravel	181,072 Tons—	6.06 per cent
[fol. 1225] Products of forests, 87 per cent of which was logs and pulp wood	772,237 Tons—	25.86 per cent
Other carload freight and all L. C. L. freight	112,431 Tons—	3.76 per cent
Total revenue freight	2,986,686 Tons—	100.00 per cent

The iron ore and other products of mines and products of forests, which constitute the major part of the traffic of these roads, move locally within the territory that they

serve. Of other carload freight, which is a very small percentage of their total traffic, the proportion that moves to or from the Southwest is so small as to be negligible (Tr. 5644).

Of the total freight traffic of the E. J. & E. Railway more than half consists of products of mines to steel mills. No part of this tonnage originates in the Southwest. Of the remaining traffic the greater part is through business between the East and the West. Some Southwestern traffic is handled by the E. J. & E. but it constitutes a very small percentage of the total freight business of that road. Considering the very slight extent to which any of these roads may participate as carriers of Southwestern traffic it is evident they should not be included as Western Trunk Lines for the purposes of this proceeding.

Exhibit A-124 includes in the list of Southwestern Lines the following: Fort Smith & Western Railroad; Louisiana & Arkansas Railway; Midland Valley Railroad; Missouri & North Arkansas Railway; Wichita Falls & Northwestern Railway (Prior to April 1, 1923); Fort Worth & Rio Grande Railway; San Antonio, Uvalde & Gulf Railroad; Trinity & Brazos Valley Railway; Wichita Valley Railway. None of these roads are respondents in this proceeding and I have not shown them in my exhibits (Tr. 5645).

The property investment, materials and supplies and [fol. 1226] cash for the years 1922, 1923, 1924 and 1925 shown on pages 10 to 13, inclusive, of my Exhibit A-241 agree with the corresponding data in Exhibit A-124, except in the following instances: Chicago Great Western Railroad: On page 10 of Exhibit A-241 I show the total property investment of this carrier as of January 1, 1925, as $141,306,785. In Exhibit A-124 at page 8 the property investment as of December 31, 1924, is shown as $174,147,937. This includes a duplication of $32,841,152. The same duplication appears in Exhibit A-124 for preceding years. The figures given in my exhibit are correct and when the duplication is eliminated from Exhibit A-124 the two entries will agree. Wabash Railway: On page 10 of Exhibit A-241 I show the total property investment of this carrier as $253,974,161. The corresponding item on page 8 of Exhibit A-124 is $252,131,184. The difference of $842,977 is the property investment account of the Hannibal Bridge. This

is a part of the physical property used by the Wabash Railway and the amount should be included in the property investment of that carrier. The same omission occurs in Exhibit A-124 for earlier years (Tr. 5646).

Southern Pacific Lines in Texas and Louisiana: In Exhibit A-241 I have shown these roads separately with an aggregate total property investment of $223,351,331 as of January 1, 1925. On page 8 of Exhibit A-124 the property investment of these lines is shown as $22,183,405. The difference of $1,167,926 is the property investment account of the Houston & Shreveport Railroad which I have included in my exhibits but which is not included in Exhibit A-124. The same difference is found in the figures for earlier years.

St. Louis-San Francisco Lines: In Exhibit A-124 the aggregate property investment of the St. Louis-San Fran- [fol. 1227] cisco, St. Louis, San Francisco & Texas and Fort Worth & Rio Grande, as of December 31, 1924, is shown on page 8 as $424,285,036 and on page 9 as $429,363,526. I have been unable to check either figure. In exhibit A-241, page 10, I have shown the property investment of the St. Louis-San Francisco Railway, including materials and supplies and cash, at the beginning of 1925, as $418,079,210, and for the St. Louis-San Francisco & Texas $3,528,185, or a total for the two roads of $421,677,395. The property investment of the Fort Worth & Rio Grande Railway, as of January 1, 1925, was as follows:

Investment in road and equipment	$8,085,921
Material and supplies	1,206
Cash	49,498
Total	$8,136,625

(Tr. 5646-5647.)

This would make the aggregate property investment of the three roads $429,814,020. The revenues and expenses of the Fort Worth & Rio Grande Railway not being used in my exhibits, I have not included the property investment of that carrier. For previous years the difference between the property investment account of the St. Louis-San Francisco Lines shown in Exhibit A-241 and in Exhibit A-124 is the property investment of the Fort Worth & Rio Grande

Railway, included in Exhibit A-124 and not included in my exhibit.

Kansas, Oklahoma & Gulf Railway: The property investment of this road as of January 1, 1922, shown on page 13 of Exhibit A-241 is $13,694,056. Exhibit A-124, page 5, shows as of December 31, 1921, property investment of $13,711,656. I have been unable to reconcile these figures. The amount I have used corresponds with that shown in the Interstate Commerce Commission's Thirty-Fifth Annual Report on the Statistics of Railways in the United [fol. 1228] States for the year 1921, and with the figures used by Mr. L. E. Wettling in Exhibit 1 in Ex Parte 87.

Missouri-Kansas-Texas and Missouri-Kansas-Texas of Texas: The total property investment of these roads as of January 1, 1922, shown on page 13 of Exhibit A-241 is $273,593,100. Exhibit A-124 at page 5 shows $281,399,308. This includes the property investment of the Wichita Falls & Northwestern Railway of $7,806,208. The revenues and expenses of the Wichita Falls & Northwestern for the year 1922 and prior to April 1, 1923, when it was taken over by the M-K-T, are not included in my exhibits and the property investment is therefore omitted (Tr. 5648-5649).

The net railway operating income for the years 1922, 1923 and 1924, inclusive, shown on pages 11, 12 and 13 of exhibit A-241 agrees with the net railway operating income for the same carriers shown on pages 6, 7 and 8 of exhibit A-124 with the following exceptions: Prior to April 1, 1923, exhibit A-241 does not include the Wichita Falls & North Western. Since April 1, 1923, the revenues and expenses of the Wichita Falls & North Western are included in the returns of the M-K-T Railway.

In Exhibit A-124 the Fort Worth & Rio Grande Railway is included with the St. Louis-San Francisco and St. Louis, San Francisco & Texas. My exhibits do not include the Fort Worth & Rio Grande. On page 11 of Exhibit A-241 the net railway operating income of the San Antonio & Aransas Pass Railway in 1924 is shown as $752,236, while on page 8 of exhibit A-124 it is shown as $758,461. The amount shown in my exhibit agrees with Mr. L. E. Wettling's Exhibit 1 in Ex Parte 87 and with the net railway operating income shown in statistical data compiled by the Bureau of Railway Economics. I have verified the amount

[fol. 1229] shown in my exhibit and find it to be correct (Tr. 5649).

On page 2 of Exhibit A-124 a comparison is made of the rate of return and net railway operating income per mile of road of carriers in Southwestern Territory with that of carriers in Western Trunk Line Territory for a 7-year period comprising the calendar years 1916 and 1917 and the years 1921 to 1925, inclusive. A 7-year average for the Western Trunk Lines based upon these years does not reflect the general condition of these carriers. In 1916 the revenues of the Western Trunk Lines reached their peak and were on a level far above that of any preceding or subsequent year, at least since 1910. In 1917 the revenues were somewhat below those of 1916 but still on a level far above that of the preceding or succeeding years. For the twelve roads included in the Western Trunk Line group in my exhibits, a list of which is given on page 5 of Exhibit A-54, the net railway operating income per mile of road for each of the years since 1910, excluding the period of Federal control and the guaranty period, was as follows:

Net Railway Operating Income per Mile of Road

For the year ended June 30, 1911	$2,288
" " " " " " 1912	1,911
" " " " " " 1913	2,449
" " " " " " 1914	2,302
" " " " " " 1915	2,254
" " " " Dec. 31, 1916	3,370
" " " " " " 1917	2,913
" " " " " " 1921	1,433
" " " " " " 1922	2,120
" " " " " " 1923	2,427
" " " " " " 1924	2,404
" " " " " " 1925	2,591

(Tr. 5650.)

[fol. 1230] The average property investment of these carriers in road and equipment, including materials and supplies and cash, increased from an average of $44,165 per mile of road operated on June 30, 1911, to $71,361 on December 31, 1924, an increase of $26,796, or a little over 60 per cent. The average annual net railway operating in-

come per mile of road operated in the years 1911 to 1915 ranged from $1,911 to $2,449, or an average for the 5-year period of $2,241. In the five years 1921 to 1925 the average annual net railway operating income per mile of road for these twelve Western Trunk Line ranged from $1,433 to $2,591, or an average for the five year period of $2,195.

Compared with these figures it will be seen that the results for the years 1916 and 1917 were exceptional and that the inclusion of these two years in the computation of a 7-year average, as has been done on Page 2 of Exhibit A-124, produces a result that is not indicative of the general average conditions of the roads in the Western Trunk Line group (Tr. 5651).

The net railway operating income and property investment given above were computed from reports of the carriers to the Interstate Commerce Commission.

In Exhibit A-124 on pages 34 and 35 are shown for the years 1923 and 1924 costs of station and yard expenses per ton of freight handled. The exhibit purports to show that these expenses range higher in Southwestern Territory than in Western Trunk Line Territory and this result is obtained by consolidating the tonnage of system or affiliated lines. Thus the average station and yard expense of the Santa Fe System in 1924, amounting to 48.49 cents per ton of freight handled, is obtained by dividing the total expense for station and yard service by the number of tons [fol. 1231] of freight carried by the system lines, counting only once each ton that was handled over two or more of the Santa Fe lines. In considering expenses for station and yard service, it would appear that each separately reported carrier should be treated separately. Had this been done and the number of tons carried as reported by each of the lines in the Santa Fe System used in the computation, the average would have been 42.13 cents. Where freight moves over two or more system or affiliated lines, it incurs expense for station and yard service on each one of the roads just the same as it would were the traffic interchanged with another railroad rather than with a system line (Tr. 5652).

Taking the data shown on Page 35 for the year ended December 31, 1924, and revising it on basis of the number of tons carried as reported by each road separately, a quite different result is obtained. The method used in preparation of the exhibit shows the average expense, including

the Santa Fe and Rock Island Lines in both groups, as 39.66 cents in the Southwest and 37.74 cents in Western Trunk Line Territory. Using the tons carried as reported by each road separately these figures would be 35.13 cents in the southwest and 36.88 cents in Western Trunk Line Territory. Excluding the Santa Fe and Rock Island from both groups, Exhibit A-124 shows 35.72 cents in the Southwest and 35.49 cents in Western Trunk Line Territory. Revising these figures on basis of tons carried as reported by each road separately, the figures are 31.62 cents in the Southwest and 35.49 in Western Trunk Line Territory.

In arriving at the average cost of station and yard service in Western Trunk Line Territory, the Duluth, South Shore and Atlantic, E. J. & E., Green Bay & Western and Lake Superior & Ishpeming are included. These expenses on the four roads named range from 8.51 to 17.47 cents, or [fol. 1232] from about ¼ to ½ of the average for the group (Tr. 5653).

I have already pointed out that these roads should not be included in an exhibit designed to reflect conditions on the Western Trunk Lines whose divisions are under consideration in this proceeding. Excluding these four roads, and computing the cost of station and yard service on basis of the tons carried as reported by each road separately, the results are as follows: Including Santa Fe and Rock Island Lines in both groups—Western Trunk Lines—39.14 cents per ton; Southwestern Lines—35.13 cents per ton; Excluding Santa Fe and Rock Island Lines from both groups: Western Trunk Lines—38.23 cents per ton; Southwestern Lines—31.62 cents per ton. Calculating the average cost of station and yard service per ton of freight handled on basis of the tons carried by each separately reporting railroad rather than by systems, it appears these expenses by any method of comparison range somewhat higher on the Western Trunk Lines than on the Southwestern Lines.

In exhibits A-51 to A-54, inclusive, I have shown by individual railroads and by groups the average freight revenue received and the average operating expenses assignable to freight service for units of service such as the ton mile, loaded car mile and freight train mile (Tr. 5654).

At pages 4951 and 4952 of the record Mr. Press contended that the net freight revenue per ton mile, per loaded

car mile or per freight train mile obtained by this method was in error to the extent that the revenue did not include the returns from miscellaneous freight service or that the operating expenses included the expense incurred in performing miscellaneous freight service. In the calculations made on pages 26 and 28 of his exhibit A-124 Mr. Press has used the freight revenue, account 101, the miscellaneous [fol. 1233] freight service earnings and a proportion of other miscellaneous revenues that under the accounting rules of the Interstate Commerce Commission are not assignable to freight or to passenger and allied services.

The miscellaneous freight service revenues assignable to freight service are the following: Switching revenue, Account; Other freight train revenue, Account 112; Storage of freight, Account 135; Demurrage, Account 137; Revenues from grain elevators, Account 139; Revenues from stock yards, Account 140 (Tr. 5655).

The revenues not assignable to either freight or passenger and allied services are: Special service train, Account 111; Hotel and restaurant, Account 132; Station, train and boat privileges, Account 133; Telegraph and Telephone, Account 138; Power Account 141; Rents of buildings and other property, Account 142; Miscellaneous, Account 143; Joint facility—credit, Account 151; Joint facility—debit, Account 152.

Neither the miscellaneous freight services nor the operations producing the other miscellaneous revenues listed above are measurable units of service such as ton miles, car miles or train miles. The revenues from these sources clearly cannot properly be used in computing the average return per unit of transportation service. Mr. Press argued for the inclusion of these miscellaneous revenues on the ground that the operating expenses assignable to freight service include the expenses of miscellaneous freight service operations and some part of the expenses of other incidental operations. He apparently proceeding on the assumption that this expense bore the same relation to the total expense assignable to freight service that the revenues from these miscellaneous and incidental services bore to the total freight service revenue, including a pro-

[fol. 1234] portion of the revenues not ordinarily assignable to either freight or passenger and allied services. There appears no warrant for such an assumption (Tr. 5655-5656).

Averages per unit of service afford a convenient method of comparison. When computed from results obtained from standard accounting practices based upon the accounting rules of the Interstate Commerce Commission, these averages rest upon a sound foundation. When we indulge assumptions and add or deduct an arbitrary amount to offset the undetermined cost of auxiliary services, the resulting comparisons are less to be relied upon than when based upon definitely known quantities. Miscellaneous freight service and other incidental revenues may not properly be used in computing earnings for units of service because they have no relation to such units of transportation service as the ton mile, car mile or train mile. The inclusion of such miscellaneous revenues tends to inflate the revenue per unit of transportation service and gives it a false value. I have therefore used in determining the average revenue per unit of service only the freight revenue, Account 101, and in determining the relative net return have deducted from this average freight revenue the average of the railway operating expenses assignable to freight service on the basis of the same units of transportation service. It may be of interest to compare briefly the results obtained by the different methods. The exhibits in the record afford the basis of three comparisons of this character for each of the three units of transportation service (Tr. 5656-5657).

In exhibit A-124, pages 28, 30 and 46, are found the basic data for computing the average revenue, including freight revenue, miscellaneous freight service revenue and a proportion of other incidental revenues. On page 2 of Exhibit A-54 are found similar basic data for computing the aver- [fol. 1235] age freight revenue or the average of the freight and miscellaneous freight service revenues combined. The following comparisons are for the year ended December 31, 1924, and show in the order indicated the following results:

1. Comparisons based upon data shown in Exhibit A-124, including freight revenue, miscellaneous freight service revenue and a proportion of other miscellaneous revenues.

2. Comparisons taken from pages 3 and 4 of exhibit A-54, including freight revenue only.

3. Comparisons based on data found on page 2 of Exhibit A-54, using freight revenue and miscellaneous revenue assignable to freight service.

Net Revenue per Million Ton-miles

1. Western Trunk Line Group	$2,709
Southwestern Lines Group	3,799
Excess S. W. over W. T. L group	1,090
2. Western Trunk Line Group	2,304
Southwestern Lines Group	3,403
Excess S. W. over W. T. L. Group	1,099
3. Western Trunk Line Group	2,574

(Tr. 5657-5658.)

Southwestern Lines Group	3,640
Excess S. W. over W. T. L. Group	1,066

Net Revenue per Loaded Freight-car Miles

1. Western Trunk Line Group	6.0 cents
Southwestern Lines Group	7.7 cents
Excess S. W. over W. T. L. Group	1.7
2. Western Trunk Line Group	5.2 cents
Southwestern Lines Group	6.9
Excess S. W. over W. T. L. Group	1.7
3. Western Trunk Line Group	5.8 cents
Southwestern Lines Group	7.4
Excess S. W. over W. T. L. Group	1.6

[fol. 1236] Net Revenue per Freight-train Mile

1. Western Trunk Line Group	$1.55
Southwestern Lines Group	1.94
Excess S. W. over W. T. L. Group	.39
2. Western Trunk Line Group	$1.33
Southwestern Lines Group	1.75
Excess S. W. over W. T. L. Group	.42
3. Western Trunk Line Group	1.49
Southwestern Lines Group	1.87
Excess S. W. over W. T. L. Group	.38

(Tr. 5659.)

In Exhibit A-241 I have used the miscellaneous freight service revenue in computing the average revenue from freight service per mile of road, and also in computing the ratio of operating expenses assignable to freight service to revenues. For the year ended December 31, 1924, the freight operating ratio as shown in this exhibit is 75.65 per cent for the W. T. L. group of roads and 72.10 per cent for the Southwestern Group, the ratio in the W. T. L. Group exceeding that in the Southwestern Group by 3.55 percentage points. The corresponding ratios obtained by the method followed by Mr. Press, as shown on page 28 of Exhibit A-124, are 74.88 per cent for the Western Trunk Lines and 71.35 per cent of the Southwestern Lines, the ratio of the Western Trunk Lines exceeding that of the Southwestern Lines by 3.53 percentage points. That comparison was according to my grouping with a comparison taken from Mr. Press' exhibit based on his grouping (Tr. 5659-5660).

The amount of other miscellaneous revenues that Mr. Press has taken into account in his computations is small in relation to the total and its inclusion or exclusion has very little effect on the average results. Its sources are not comparable in character with the operations that produce the principal operating revenues of the carriers and [fol. 1237] I do not believe under present accounting methods it is possible to allocate any particular proportion of operating expenses against these operations. None of these miscellaneous sources of revenue result from operations that can be measured in ton miles, car miles or train miles, and in the absence of some fairly accurate method of determining operating expenses chargeable to such miscellaneous operations, I am of the opinion that the soundest method for making comparisons of revenues, expenses and net results for units of service is that followed in my exhibits (Tr. 5660-5661).

At the Galveston hearing Mr. W. J. Sauer introduced Exhibits A-196, A-197 and A-198, in which he undertook to show by percentages the relation of the revenues received by the Southwestern Lines on traffic moving during June and October, 1924, to the revenue they would have received on basis of a mileage prorate. Exhibit A-196 is based upon data contained in Western Trunk Lines' Ex-

hibit A-60. In checking over the latter exhibit certain corrections have been found necessary in the statement of tons, ton miles and revenue of oil from Oklahoma Group B via Kansas City, shown on page 7. These corrections make the following changes in the percentages in Exhibit A-196: On Sheet 1 the ratio for Southwestern Lines on all carloads should be 112.1 per cent instead of 111 per cent. On oil the ratio for the Southwestern Lines should be 106.2 per cent instead of 104.3 per cent. The corrections that I am reading are the result of purely mathematical calculations (Tr. 5661).

On sheet 2 the ratio for Southwestern Lines on Oklahoma traffic via Kansas City should be 117.5 per cent instead of 114.2 per cent and the ratio of the bottom of the sheet [fol. 1238] for all traffic should be 115.8 per cent instead of 114.1 per cent. In commenting upon these exhibits I have used the corrected figures.

Exhibits A-196, A-197 and A-198 make no comparison between the Western Trunk Lines and Southwestern Lines, inasmuch as they show only ratios for one group of carriers. To afford a complete comparison there should have been shown in the exhibits the relation of the revenues accruing to the Western Trunk Lines to the revenue they would have received on basis of a mileage prorate. Thus on Sheet 1 in the last block of figures Mr. Sauer shows that on other carloads via all junctions the Southwestern Lines received 119.3 per cent of a mileage prorate. It is obvious if one group of carriers receives in excess of a mileage prorate the remaining carriers in the through route must receive less than a mileage prorate. To complete the comparison it should be shown that the revenues of the Western Trunk Lines were 74.2 per cent of what a mileage prorate would have yielded them. The complete comparison, therefore, is 74.2 per cent of a mileage prorate received by the Western Trunk Lines with 119.3 per cent of a mileage prorate received by the Southwestern Lines (Tr. 5662).

Where joint rates are divided on any basis that varies materially from a mileage prorate, a more apt comparison may be made by reducing the divisions to a common unit. Where the revenues under the joint rates accruing to one group of carriers return generally a higher rate per ton

mile than is received by the other group of carriers, the comparison may be made by taking as a unit one mile of haul in the territory in which the lower level of divisions prevails and equating the hauls in the other territory on the same per ton per mile basis. This will show the number of constructive miles represented by the divisions of one group of carriers compared with the actual mileage hauls of the other group. Such comparison more clearly illustrates the relative divisions of the two groups of car- [fol. 1239] riers than the tables shown in Exhibits A-196, A-197 and A-198. This may be illustrated by the following example: If we assume a through haul of 800 miles divided equally between two carriers, the divisions on a mileage basis would be 50 per cent to each. If one of the carriers is allowed for its service two miles for each mile accorded the other, then the divisions would be in the ratio of 400 to 800, or 33⅓ per cent to the first carrier and 66⅔ per cent to the other. Thus the second carrier would get twice as much as the first for the same length of haul, but its division of 66⅔ per cent is only 33⅓ per cent of a mileage prorate (Tr. 5662-5663).

I have prepared an exhibit, No. A-242, consisting of four pages, on which I have shown the number of miles represented by the divisions received by the Southwestern Lines compared with each actual mile of service on the Western Trunk Lines. This is based on the traffic moving in June, 1924, as shown in our exhibit A-60. The first page of the exhibit is based upon the data shown on page 1 of Exhibit A-60 and covers traffic moving via Kansas City. This is based on Exhibit A-60 as it will be with corrections. This page of the exhibit shows that for an actual weighted average haul of 418 miles the Southwestern Lines received the same revenue that they would have received on a mileage basis for a haul of 563 miles. The weighted average haul of the Western Trunk Lines was 472 miles. The factors 472 and 563 produce percentages of 45.6 per cent for the Western Trunk Lines and 54.4 per cent for the Southwestern Lines. These check with the percentages of revenue shown at the bottom of Sheet 2 of Exhibit A-196. While the revenue accruing to the Southwestern Lines was 115.8 per cent of the revenue they would have received on basis of a mileage prorate, the Western

Trunk Lines received only 87.1 per cent of a mileage prorate. The divisions accruing to the Southwestern Lines [fol. 1240] via Kansas City reflected 1.35 miles for each mile of service (Tr. 5664).

Sheet 2 of Exhibit A-242 is a similar statement of traffic moving via East St. Louis and is based on the data shown on page 2 of Exhibit A-60. It shows that on all carload traffic moving via East St. Louis in June, 1924, the Southwestern Lines for a weighted average haul of 508 miles. Revenue equal to a mileage prorate for a haul of 601 miles, or 1.18 miles for each mile of service. The weighted average haul of the Western Trunk Lines was 274 miles. The factors of 274 and 601 produce percentages of 31.3 per cent for the Western Trunk Lines and 68.7 per cent for the Southwestern Lines, which check with the figures shown at the bottom of Sheet 3 of Exhibit A-196. That exhibit shows on traffic moving via East St. Louis the Southwestern Lines received 105.7 per cent of a mileage prorate, but it does not show that Western Trunk Lines on the same traffic received only 89.5 per cent of a mileage prorate. Sheet 3 of Exhibit A-242 covers traffic moving via Cairo, Gale and Thebes, as shown on page 3 of Exhibit A-60. For a weighted average haul of 252 miles the Southwestern Lines received the same revenue that they would have received on a mileage basis for a haul of 353 miles, or 1.40 miles for each mile of service. The weighted average haul on the Western Trunk Lines was 290 miles. The factors of 290 and 353 produce percentages of 45.1 per cent for the Western Trunk Lines and 54.9 per cent for the Southwestern Lines. These check with the per cents shown on Sheet 4 of Exhibit A-196. While the revenues actually received by the Southwestern Lines were 118.1 per cent of what they would have received on a mileage prorate, the Western Trunk Lines' revenues were only 84.3 per cent of a mileage prorate (Tr. 5665-5666).

[fol. 1241] Page 4 of exhibit A-242 is a consolidation of the information contained on the preceding three pages. It shows that the revenues actually received by the Southwestern Lines on June, 1924, traffic moving via all junctions represented 1.29 miles for each mile of service. Thus for a weighted average haul of 443 miles the division of revenue was equal to that for a haul of 572 miles. The weighted

average haul of the Western Trunk Lines was 405 miles. The factors of 405 and 572 produce percentages of 41.5 per cent for the Western Trunk Lines and 58.5 per cent for the Southwestern Lines, which are the same as the percentages shown in the first block on sheet 1 of Exhibit A-196. That exhibit shows that the revenues accruing to the Southwestern Lines were 112.1 per cent of the revenue they would have received on basis of a mileage prorate. On the same traffic the Western Trunk Lines received only 86.8 per cent of a mileage prorate (Tr. 5666).

In Exhibit A-197 Mr. Sauer analyzes the traffic handled in October, 1924, shown in Southwestern Lines' Exhibit A-116 to A-120, inclusive, to show the ratio of the revenue received by those lines to the revenue that would have accrued to them had the divisions been on the basis of a mileage prorate. To make a complete comparison the ratios of revenues accruing to the Western Trunk Lines should have been included. Sheet 1 of Exhibit A-197 covers all carload traffic moving via all junctions during October, 1924. From this exhibit the following comparisons are drawn: On all carload traffic the Western Trunk Lines received 83.8 per cent of a mileage prorate and the Southwestern Lines 113.1 per cent. The divisions of the Southwestern Lines were equivalent to 1.35 miles for each mile of service. On lumber the Western Trunk Lines received 96 per cent and the Southwestern Lines 102.3 per cent of [fol. 1242] a mileage prorate, the latter being equivalent to 1.07 miles for each mile of service. On oil the Western Trunk Lines received 92.6 per cent and the Southwestern Lines 107.7 per cent of a mileage prorate, the divisions of the Southwestern Lines being equal to 1.16 miles for each mile of actual service. On other carload freight the revenues accruing to the Western Trunk Lines were equal to 76.7 per cent and those accruing to the Southwestern Lines 117.3 per cent of a mileage prorate, the Southwestern Lines on this traffic receiving divisions equal to 1.53 miles for each mile of service (Tr. 5666-5667).

On all carload traffic moving via Kansas City, shown on Sheet 2 of Exhibit A-197, the Western Trunk Lines received 83.8 per cent and the Southwestern Lines 115.4 per cent of the revenue they would have received on basis of a mileage prorate, the divisions to the Southwestern Lines

represented 1.38 miles for each actual mile of service. On all carload traffic moving via East St. Louis, shown on Sheet 3 of Exhibit A-197, the ratios were 84.2 per cent for the Western Trunk Lines and 1091. per cent for the Southwestern Lines. The Southwestern Lines received revenue equal to 1.30 miles for each actual mile of service. On all carload traffic moving via Cairo, Gale and Thebes, shown on Sheet 4 of Exhibit A-197, the revenues of the Western Trunk Lines were equal to 86.3 per cent and those of the Southwestern Lines to 112.4 per cent of what each group of carriers would have received on basis of a mileage prorate. The divisions of the Southwestern Lines were equal to an allowance of 1.30 miles for each mile of service.

I prepared these exhibits A-241 and A-242 myself.

The statements theretofore described by the witness and referred to by him as Exhibits A-241 and A-242 were therefore offered in evidence (Tr. 5667-5668).

[fol. 1243] (The statements described by the witness were received in evidence as Exhibits A-241 and A-242 respectively).

Said exhibit A-241 is in words and figures as follows:

(Here follows Exhibit No. A-241, side folios 1244, 1245, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, and 1261.)

[fol. 1244]

EXHIBIT No. A-241

Witness: Parsons

(Title page omitted)

Page 2

I. C. C. Docket 15234

1925

Railway Operating Revenues and Expenses, Net Railway Operating Income, and Rate of Return
Year Ended December 31, 1925

	Western trunk lines	Texas lines	Louisiana lines	Other Southwestern lines	All Southwestern lines
Average Miles of Road Operated	48 100	14 341	1 326	33 120	48 787
Railway Operating Revenues	$867 887 503	$220 164 078	$24 632 187	$618 446 270	$863 242 535
Railway Operating Expenses	668 925 441	164 257 452	19 949 993	448 360 108	632 567 553
Net Railway Operating Revenue	198 962 062	55 906 626	4 682 194	170 086 162	230 674 982
Railway Tax Accruals	53 426 620	9 723 199	1 756 222	37 101 615	48 581 036
Uncollectible Railway Revenues	257 207	126 760	17 889	231 662	376 311
Equipment Rents, Net Debit	11 293 561	9 692 854	264 517	7 316 501	17 273 872
Joint Facility Rents, Net Debit	9 351 499	369 332	91 904	4 903 924	5 365 160
Net Railway Operating Income	124 633 175	35 994 481	2 551 662	120 532 460	159 078 603
Operating Ratio	77.08%	74.61%	80.99%	72.50%	73.28%
Ratio and Expenses and Rents to Revenue (a)	85.64%	83.65%	89.64%	80.51%	81.57%
Property Investment, Materials and Supplies and Cash, as of January 1, 1925	$3 432 475 212	$711 614 996	$100 111 573	$2 592 136 286	$3 403 862 855
Rate of Return	3.63%	5.06%	2.55%	4.65%	4.67%

*—Does not include data of K. O. & G. Ry. of Texas or H. & S. R. R.

(a)—Ratio of the sum of Railway Operating Expenses, Railway Tax Accruals, Uncollectible Railway Revenues and Equipment and Joint Facility Rents to Railway Operating Revenues.

[fol. 1245]

I. C. C. Docket 15234

1924

Railway Operating Revenues and Expenses, Net Railway Operating Income and Rate of Return, Freight Revenues and Expenses
Year Ended December 31, 1924

	Western trunk lines	Texas lines	Louisiana lines	Other Southwestern lines	All Southwestern lines
Average Miles of Road Operated	47 739	14 311	1 367	32 935	48 613
Railway Operating Revenues	$861 647 922	$222 289 822	$25 252 936	$603 410 743	$850 953 501
Railway Operating Expenses—					
Maintenance of Way & Structures	119 110 099	36 276 294	4 936 003	84 403 345	125 615 642
Maintenance of Equipment	183 964 666	41 491 574	4 834 705	130 332 256	176 658 535
Transportation	330 875 857	73 608 464	8 915 954	207 330 815	289 855 233
Other Expenses	41 498 306	12 615 763	1 944 601	28 063 280	42 623 644
Total Expenses	675 448 928	163 992 095	20 631 263	450 129 696	634 753 054
Net Railway Operating Revenues	186 198 994	58 297 727	4 621 673	153 281 047	216 200 447
Railway Tax Accruals	52 493 393	8 749 554	1 789 465	36 531 004	47 070 023
Uncollectible Railway Revenues	404 742	138 656	18 137	240 671	397 464
Hire of Equipment and Joint Facility Rents—Net Debit.	18 540 113	9 901 591	405 671	9 462 556	19 769 818
Net Railway Operating Income	114 760 746	39 507 026	2 408 400	107 046 816	148 963 142
Operating Ratio	78.39%	73.77%	81.70%	74.60%	74.59%
Ratio Expenses and Rents to Revenue (a)	86.68%	82.23%	90.46%	82.26%	82.49%
Property Investment, Materials and Supplies and Cash, as of January 1, 1924	$3 369 101 645	$687 995 590	$99 254 758	$2 495 166 138	$3 282 416 486
Rate of Return	3.41%	5.74%	2.43%	4.29%	4.54%
Freight Revenue	$640 681 920	$168 541 935	$19 101 595	$443 088 033	$630 731 563
Miscellaneous Freight Service Revenue	16 793 688	2 807 562	420 374	8 448 105	11 676 041
Total Freight Service Revenue	657 475 608	171 349 497	19 521 969	451 536 138	642 407 604
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	87 888 235	27 212 740	3 624 186	60 774 490	91 611 416
Maintenance of Equipment	140 434 551	32 191 810	3 757 234	97 452 542	133 401 586
Transportation	245 353 222	55 141 434	6 771 981	150 492 129	212 405 544
Other Expenses	23 704 622	7 633 259	1 271 901	16 850 796	25 755 956
Total Expenses	497 380 630	122 179 243	15 425 302	325 569 957	463 174 502
Net Freight Revenue	143 301 290	46 362 692	3 676 293	117 518 076	167 557 061

	Western trunk lines	Texas lines	Louisiana lines	Other Southwestern lines	All Southwestern lines
Average Miles of Road Operated	47 739	14 311	1 367	32 935	48 613
Railway Operating Revenues	$861 647 922	$222 289 822	$25 252 936	$603 410 743	$850 953 501
Railway Operating Expenses—					
Maintenance of Way & Structures	119 110 099	36 276 294	4 936 003	84 403 345	125 615 642
Maintenance of Equipment	183 964 666	41 491 574	4 834 705	130 332 256	176 658 535
Transportation	330 875 857	73 608 464	8 915 954	207 330 815	289 855 233
Other Expenses	41 498 306	12 615 763	1 944 601	28 063 280	42 623 644
Total Expenses	675 448 928	163 992 095	20 631 263	450 129 696	634 753 054
Net Railway Operating Revenues	186 198 994	58 297 727	4 621 673	153 281 047	216 200 447
Railway Tax Accruals	52 493 393	8 749 554	1 789 465	36 531 004	47 070 023
Uncollectible Railway Revenues	404 742	138 656	18 137	240 671	397 464
Hire of Equipment and Joint Facility Rents—Net Debit.	18 540 113	9 901 591	405 671	9 462 556	19 769 818
Net Railway Operating Income	114 760 746	39 507 026	2 408 400	107 046 816	148 963 142
Operating Ratio	78.39%	73.77%	81.70%	74.60%	74.59%
Ratio Expenses and Rents to Revenue (a)	86.68%	82.23%	90.46%	82.26%	82.49%
Property Investment, Materials and Supplies and Cash, as of January 1, 1924	$3 369 101 645	$687 995 590	$99 254 758	$2 495 166 138	$3 282 416 486
Rate of Return	3.41%	5.74%	2.43%	4.29%	4.54%
Freight Revenue	$640 681 920	$168 541 935	$19 101 595	$443 088 033	$630 731 563
Miscellaneous Freight Service Revenue	16 793 688	2 807 562	420 374	8 448 105	11 676 041
Total Freight Service Revenue	657 475 608	171 349 497	19 521 969	451 536 138	642 407 604
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	87 888 235	27 212 740	3 624 186	60 774 490	91 611 416
Maintenance of Equipment	140 434 551	32 191 810	3 757 234	97 452 542	133 401 586
Transportation	245 353 222	55 141 434	6 771 981	150 492 129	212 405 544
Other Expenses	23 704 622	7 633 259	1 271 901	16 850 796	25 755 956
Total Expenses	497 380 630	122 179 243	15 425 302	325 569 957	463 174 502
Net Freight Revenue	143 301 290	46 362 692	3 676 293	117 518 076	167 557 061
Net Freight Service Revenue	160 094 978	49 170 254	4 096 667	125 966 181	179 233 102
Operating Ratio—Freight (b)	75.65%	71.30%	79.01%	72.19%	72.10%

(a)—Ratio of the sum of Railway Operating Expenses, Railway Tax Accruals, Uncollectible Railway Revenues and Equipment and Joint Facility Rents to Railway Operating Revenues.

(b)—Ratio of Freight Operating Expenses to total Freight Service Revenue.

I. C. C. Docket 15234

1923

Railway Operating Revenues and Expenses, Net Railway Operating Income and Rate of Return, Freight Revenues and Expenses

Year Ended December 31, 1923

	Western Trunk Lines	Texas Lines	Louisiana Lines	Other Southwestern Lines	All Southwestern Lines
Average Miles of Road Operated	47 730	14 389	1 368	32 703	48 460
Railway Operating Revenues	$916 770 803	$201 748 712	$25 911 343	$607 598 697	$835 258 752
Railway Operating Expenses—					
Maintenance of Way & Structures	126 682 554	34 210 396	4 597 796	81 254 153	120 062 345
Maintenance of Equipment	208 708 741	43 380 922	5 162 898	144 271 574	192 815 367
Transportation	357 615 563	72 175 284	8 831 855	212 960 329	293 967 468
Other Expenses	41 079 182	11 428 488	1 845 339	26 294 074	39 567 901
Total Expenses	734 086 040	161 195 090	20 437 888	464 780 103	646 413 081
Net Railway Operating Revenues	182 684 763	40 553 622	5 473 455	142 818 594	188 845 671
Railway Tax Accruals	48 388 188	7 312 425	1 972 803	37 651 224	46 936 452
Uncollectible Railway Revenues	226 440	130 482	14 135	216 618	361 235
Hire of Equipment and Joint Facility Rents—Net Debit	18 205 552	8 117 724	82 661	5 905 303	14 105 688
Net Railway Operating Income	115 864 583	24 992 991	3 403 856	99 045 449	127 442 296
Operating Ratio	80.07%	79.89%	78.88%	76.49%	77.39%
Ratio Expenses and Rents to Revenue (a)	87.36%	87.61%	86.86%	83.70%	84.74%
Property Investment, Materials and Supplies and Cash, as of January 1, 1923	$3 230 775 599	$678 919 419	$97 236 353	$2 404 769 808	$3 180 925 580
Rate of Return	3.58%	3.68%	3.50%	4.12%	4.01%
Freight Revenue	$683 363 385	$147 282 951	$19 209 299	$436 916 813	$603 409 063
Miscellaneous Freight Service Revenue	18 299 709	2 598 461	402 182	8 477 511	11 478 154
Total Freight Service Revenue	701 663 094	149 881 412	19 611 481	445 394 324	614 887 217
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	94 986 381	24 881 868	3 244 753	58 894 756	87 021 377
Maintenance of Equipment	162 377 275	33 010 387	3 896 862	107 571 332	144 478 581
Transportation	270 406 806	53 389 791	6 506 055	154 999 028	214 894 874
Other Expenses	23 891 596	6 940 150	1 216 196	17 348 143	25 504 489
Total Expenses	551 662 058	118 222 196	14 863 866	338 813 259	471 899 321

	Trunk Lines	Texas Lines	Louisiana Lines	Southwestern Lines	Southwestern Lines
Average Miles of Road Operated	47 730	14 389	1 368	32 703	48 460
Railway Operating Revenues	$916 770 803	$201 748 712	$25 911 343	$607 598 697	$835 258 752
Railway Operating Expenses—					
Maintenance of Way & Structures	126 682 554	34 210 396	4 597 796	81 254 153	120 062 345
Maintenance of Equipment	208 708 741	43 380 922	5 162 898	144 271 574	192 815 367
Transportation	357 615 563	72 175 284	8 831 855	212 960 329	293 967 468
Other Expenses	41 079 182	11 428 488	1 845 339	26 294 074	39 567 901
Total Expenses	734 086 040	161 195 090	20 437 888	464 780 103	646 413 081
Net Railway Operating Revenues	182 684 763	40 553 622	5 473 455	142 818 594	188 845 671
Railway Tax Accruals	48 388 188	7 312 425	1 972 803	37 651 224	46 936 452
Uncollectible Railway Revenues	226 440	130 482	14 135	216 618	361 235
Hire of Equipment and Joint Facility Rents—Net Debit	18 205 552	8 117 724	82 661	5 905 303	14 105 688
Net Railway Operating Income	115 864 583	24 992 991	3 403 856	99 045 449	127 442 296
Operating Ratio	80.07%	79.89%	78.88%	76.49%	77.39%
Ratio Expenses and Rents to Revenue (a)	87.36%	87.61%	86.86%	83.70%	84.74%
Property Investment, Materials and Supplies and Cash, as of January 1, 1923	$3 230 775 599	$678 919 419	$97 236 353	$2 404 769 808	$3 180 925 580
Rate of Return	3.58%	3.68%	3.50%	4.12%	4.01%
Freight Revenue	$683 363 385	$147 282 951	$19 209 299	$436 916 813	$603 409 063
Miscellaneous Freight Service Revenue	18 299 709	2 598 461	402 182	8 477 511	11 478 154
Total Freight Service Revenue	701 663 094	149 881 412	19 611 481	445 394 324	614 887 217
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	94 986 381	24 881 868	3 244 753	58 894 756	87 021 377
Maintenance of Equipment	162 377 275	33 010 387	3 896 862	107 571 332	144 478 581
Transportation	270 406 806	53 389 791	6 506 055	154 999 028	214 894 874
Other Expenses	23 891 596	6 940 150	1 216 196	17 348 143	25 504 489
Total Expenses	551 662 058	118 222 196	14 863 866	338 813 259	471 899 321
Net Freight Revenue	131 701 327	29 060 755	4 345 433	98 103 554	131 509 742
Net Freight Service Revenue	150 001 036	31 659 216	4 747 615	106 581 065	142 987 896
Operating Ratio—Freight (b)	78.62%	78.88%	75.79%	76.07%	76.75%

(a)—Ratio of the sum of Railway Operating Expense, Railway Tax Accruals, Uncollectible Railway Revenues and Equipment and Joint Facility Rents to Railway Operating Revenues.

(b)—Ratio of Freight Operating Expenses to total Freight Service Revenue.

I. C. C. Docket 15234

1922

Railway Operating Revenues and Expenses, Net Railway Operating Income and Rate of Return, Freight Revenues and Expenses

Year Ended December 31, 1922

	Western trunk lines	Texas lines	Louisiana lines	Other Southwestern lines	All Southwestern lines
Average Miles of Road Operated	47 612	14 456	1 356	32 528	48 340
Railway Operating Revenues	$848 749 130	$191 061 960	$23 865 916	$562 810 127	$777 738 003
Railway Operating Expenses—					
Maintenance of Way & Structures	111 854 264	33 409 003	4 233 849	82 404 311	120 047 163
Maintenance of Equipment	186 607 709	39 348 979	4 890 804	117 998 295	162 238 078
Transportation	344 328 629	72 289 943	8 245 986	204 569 805	285 105 734
Other Expenses	39 374 784	11 608 788	1 760 836	25 029 674	38 399 298
Total Expenses	682 165 386	156 656 713	19 131 475	430 002 085	605 790 273
Net Railway Operating Revenues	166 583 744	34 405 247	4 734 441	132 808 042	171 947 730
Railway Tax Accruals	51 599 784	7 078 530	1 615 187	35 059 932	43 753 649
Uncollectible Railway Revenues	149 368	101 824	8 451	193 929	304 204
Hire of Equipment and Joint Facility Rents—Net Debit	13 907 351	8 806 365	262 062	6 199 184	15 267 611
Net Railway Operating Income	100 927 241	18 418 528	2 848 741	91 354 997	112 622 266
Operating Ratio	80.37%	81.99%	80.16%	76.40%	77.89%
Ratio Expenses and Rents to Revenue (a)	88.11%	90.36%	88.06%	83.77%	85.52%
Property Investment, Materials and Supplies and Cash, as of January 1, 1922	$3 154 687 132	$673 002 102	$95 848 937	$2 361 914 623	$3 130 765 662
Rate of Return	3.20%	2.74%	2.97%	3.87%	3.60%
Freight Revenue	$625 720 751	$138 956 817	$17 436 007	$403 451 058	$559 843 882
Miscellaneous Freight Service Revenue	15 587 014	2 164 460	367 840	7 460 180	9 992 480
Total Freight Service Revenue	641 306 765	141 121 277	17 803 847	410 911 238	569 836 362
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	81 636 973	23 686 244	2 554 313	58 027 253	84 267 810
Maintenance of Equipment	144 822 316	29 967 678	4 049 889	88 692 178	122 709 745
Transportation	254 547 360	52 630 266	5 969 959	145 745 477	204 345 702
Other Expenses	23 372 601	8 015 942	1 525 261	15 950 340	25 491 543
Total Expenses	504 379 250	114 300 130			

	lines	lines	lines	lines	lines
Average Miles of Road Operated	47 612	14 456	1 356	32 528	48 340
Railway Operating Revenues	$848 749 130	$191 061 960	$23 865 916	$562 810 127	$777 738 003
Railway Operating Expenses—					
Maintenance of Way & Structures	111 854 264	33 409 003	4 233 849	82 404 311	120 047 163
Maintenance of Equipment	186 607 709	39 348 979	4 890 804	117 998 295	162 238 078
Transportation	344 328 629	72 289 943	8 245 986	204 569 805	285 105 734
Other Expenses	39 374 784	11 608 788	1 760 836	25 029 674	38 399 298
Total Expenses	682 165 386	156 656 713	19 131 475	430 002 085	605 790 273
Net Railway Operating Revenues	166 583 744	34 405 247	4 734 441	132 808 042	171 947 730
Railway Tax Accruals	51 599 784	7 078 530	1 615 187	35 059 932	43 753 649
Uncollectible Railway Revenues	149 368	101 824	8 451	193 929	304 204
Hire of Equipment and Joint Facility Rents—Net Debit	13 907 351	8 806 365	262 062	6 199 184	15 267 611
Net Railway Operating Income	100 927 241	18 418 528	2 848 741	91 354 997	112 622 266
Operating Ratio	80.37%	81.99%	80.16%	76.40%	77.89%
Ratio Expenses and Rents to Revenue (a)	88.11%	90.36%	88.06%	83.77%	85.52%
Property Investment, Materials and Supplies and Cash, as of January 1, 1922	$3 154 687 132	$673 002 102	$95 848 937	$2 361 914 623	$3 130 765 662
Rate of Return	3.20%	2.74%	2.97%	3.87%	3.60%
Freight Revenue	$625 720 751	$138 956 817	$17 436 007	$403 451 058	$559 843 882
Miscellaneous Freight Service Revenue	15 587 014	2 164 460	367 840	7 460 180	9 992 480
Total Freight Service Revenue	641 306 765	141 121 277	17 803 847	410 911 238	569 836 362
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	81 636 973	23 686 244	2 554 313	58 027 253	84 267 810
Maintenance of Equipment	144 822 316	29 967 678	4 049 889	88 692 178	122 709 745
Transportation	254 547 360	52 630 266	5 969 959	145 745 477	204 345 702
Other Expenses	23 372 601	8 015 942	1 525 261	15 950 340	25 491 543
Total Expenses	504 379 250	114 300 130	14 099 422	308 415 248	436 814 800
Net Freight Revenue	121 341 501	24 656 687	3 336 585	95 035 810	123 029 082
Net Freight Service Revenue	136 927 515	26 821 147	3 704 425	102 495 990	133 021 562
Operating Ratio—Freight (b)	78.65%	80.99%	79.19%	75.06%	76.66%

(a)—Ratio of the sum of Railway Operating Expenses, Railway Tax Accruals, Uncollectible Railway Revenues and Equipment and Joint Facility Rents to Railway Operating Revenues.

(b)—Ratio of Freight Operating Expenses to total Freight Service Revenue.

[fol. 1248]

I. C. C. Docket 15234

1925

Railway Operating Revenues and Expenses, Net Railway Operating Income and Property Investment Per Mile of Road

Year Ended December 31, 1925

Averages Per Mile of Road	Western Trunk Lines	*Texas Lines	*Louisiana Lines	Other Southwestern Lines	All Southwestern Lines
Railway Operating Revenues	$18 043	$15 352	$18 576	$18 673	$17 694
Railway Operating Expenses	13 907	11 454	15 045	13 538	12 966
Net Railway Operating Revenues	4 136	3 898	3 531	5 135	4 728
Railway Tax Accruals	1 111	678	1 325	1 120	996
Uncollectible Railway Revenues	5	9	14	7	7
Equipment Rents, Net Debit	235	676	199	221	354
Joint Facility Rents, Net Debit	194	25	69	148	110
Net Railway Operating Income	2 591	2 510	1 924	3 639	3 261
Property Investment, Materials and Supplies and Cash, as of January 1, 1925	71 361	49 621	75 499	78 265	69 770

*—Does not include data of K. O. & G. Ry. of Texas or H. & S. R. R.

Railway Operating Revenues and Expenses, Net Railway Operating Income, Property Investment, Freight Revenues and Expenses and Ton Miles Revenue Freight Per Mile of Road

Year Ended December 31, 1924

Averages Per Mile of Road	Western trunk lines	Texas lines	Louisiana lines	Other Southwestern lines	All Southwestern lines
Railway Operating Revenues	$18 049	$15 533	$18 473	$18 321	$17 505
Railway Operating Expenses—					
Maintenance of Way & Structures	2 495	2 535	3 610	2 563	2 584
Maintenance of Equipment	3 854	2 899	3 537	3 957	3 634
Transportation	6 931	5 143	6 522	6 295	5 963
Other Expenses	869	882	1 423	852	877
Total Expenses	14 149	11 459	15 092	13 667	13 058
Net Railway Operating Revenues	3 900	4 074	3 381	4 654	4 447
Railway Tax Accruals	1 100	611	1 309	1 109	968
Uncollectible Railway Revenues	8	10	13	7	8
Hire of Equipment and Joint Facility Rents—Net Debit	388	692	297	288	407
Net Railway Operating Income	2 404	2 761	1 762	3 250	3 064
Property Investment, Materials and Supplies and Cash, as of January 1, 1924	$70 573	$48 075	$72 608	$75 760	$67 522
Freight Revenue	$13 421	$11 777	$13 973	$13 453	$12 975
Miscellaneous Freight Service Revenue	351	196	308	257	240
Total Freight Service Revenue	13 772	11 973	14 281	13 710	13 215
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	1 841	1 902	2 652	1 845	1 884
Maintenance of Equipment	2 942	2 249	2 748	2 959	2 745
Transportation	5 139	3 853	4 954	4 569	4 369
Other Expenses	497	533	930	512	530
Total Expenses	10 419	8 537	11 284	9 885	9 528
Net Freight Revenue	3 002	3 240	2 689	3 568	3 447
Net Freight Service Revenue	3 353	3 436	2 997	3 825	3 687
Ton Miles Revenue Freight	1 302 926	853 342	1 036 221	1 081 430	1 013 012

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1923

Railway Operating Revenues and Expenses, Net Railway Operating Income, Property Investment, Freight Revenues and Expenses and Ton Miles Revenue Freight Per Mile of Road

Year Ended December 31, 1923

Averages Per Mile of Road	Western Trunk Lines	Texas Lines	Louisiana Lines	Other Southwestern Lines	All Southwestern Lines
Railway Operating Revenues	$19 207	$14 021	$18 941	$18 579	$17 236
Railway Operating Expenses—					
Maintenance of Way & Structures	2 653	2 377	3 361	2 485	2 478
Maintenance of Equipment	4 373	3 015	3 774	4 412	3 979
Transportation	7 492	5 016	6 456	6 511	6 066
Other Expenses	862	795	1 349	804	816
Total Expenses	15 380	11 203	14 940	14 212	13 339
Net Railway Operating Revenues	3 827	2 818	4 001	4 367	3 897
Railway Tax Accruals	1 014	508	1 442	1 151	969
Uncollectible Railway Revenues	5	9	10	6	7
Hire of Equipment and Joint Facility Rents—Net Debit	381	564	61	181	291
Net Railway Operating Income	2 427	1 737	2 488	3 029	2 630
Property Investment, Materials and Supplies and Cash, as of January 1, 1923	$67 689	$47 183	$71 079	$73 534	$65 640
Freight Revenue	$14 317	$10 236	$14 042	$13 360	$12 452
Miscellaneous Freight Service Revenue	384	180	294	259	237
Total Freight Service Revenue	14 701	10 416	14 336	13 619	12 689
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	1 990	1 729	2 372	1 801	1 796
Maintenance of Equipment	3 402	2 294	2 849	3 289	2 981
Transportation	5 665	3 711	4 755	4 740	4 434
Other Expenses	501	482	889	530	527
Total Expenses	11 558	8 216	10 865	10 360	9 738
Net Freight Revenue	2 759	2 020	3 177	3 000	2 714
Net Freight Service Revenue	3 143	2 200	3 471	3 259	2 951
Ton Miles Revenue Freight	1 398 998	728 893	964 476	1 035 814	942 668

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1922

Railway Operating Revenues and Expenses, Net Railway Operating Income, Property Investment, Freight Revenues and Expenses and Ton Miles Revenue Freight Per Mile of Road

Year Ended December 31, 1922

Averages Per Mile of Road	Western trunk lines	Texas lines	Louisiana lines	Other Southwestern lines	All Southwestern lines
Railway Operating Revenues	$17 827	$13 217	$17 600	$17 302	$16 088
Railway Operating Expenses—					
Maintenance of Way & Structures	2 349	2 311	3 122	2 533	2 483
Maintenance of Equipment	3 920	2 722	3 607	3 628	3 356
Transportation	7 232	5 001	6 082	6 289	5 898
Other Expenses	827	803	1 298	769	794
Total Expenses	14 328	10 837	14 109	13 219	12 531
Net Railway Operating Revenues	3 499	2 380	3 491	4 083	3 557
Railway Tax Accruals	1 084	490	1 191	1 078	905
Uncollectible Railway Revenues	3	7	6	6	6
Hire of Equipment and Joint Facility Rents—Net Debit	292	609	193	191	316
Net Railway Operating Income	2 120	1 274	2 101	2 808	2 330
Property Investment, Materials and Supplies and Cash, as of January 1, 1922	$66 258	$46 555	$70 685	$72 612	$64 766
Freight Revenue	$13 142	$9 612	$12 858	$12 403	$11 581
Miscellaneous Freight Service Revenue	328	150	272	230	207
Total Freight Service Revenue	13 470	9 762	13 130	12 633	11 788
Railway Operating Expenses—Freight					
Maintenance of Way & Structures	1 715	1 639	1 883	1 784	1 743
Maintenance of Equipment	3 042	2 073	2 987	2 727	2 538
Transportation	5 346	3 640	4 403	4 481	4 228
Other Expenses	491	555	1 125	490	572
Total Expenses	10 594	7 907	10 398	9 482	9 036
Net Freight Revenue	2 548	1 705	2 460	2 921	2 545
Net Freight Service Revenue	2 876	1 855	2 732	3 151	2 752
Ton Miles Revenue Freight	1 243 622	653 463	831 825	904 321	827 269

1925

Property Investment and Net Railway Operating Income
Year Ended December 31, 1925

Railroad	Property investment, 701-702	Materials and supplies, 716	Cash, 708	Total property investment	Net railway operating income
Chicago & Alton	$154 138 288	$1 717 996	$2 516 480	$158 372 764	$4 547 871
C. & E. I	86 532 151	2 341 393	1 725 388	90 598 932	2 148 267
C. & N. W	493 582 386	13 941 088	12 678 992	520 202 466	21 108 750
C. B. & Q	575 464 188	18 525 883	17 048 439	611 038 510	28 131 917
C. G. W	138 090 365	1 190 471	2 025 949	141 306 785	2 087 913
C. M. & St. P	720 663 283	13 575 288	7 843 985	742 082 556	16 873 636
C., St. P. M. & O	88 111 012	2 239 278	1 117 585	91 467 875	3 221 619
Illinois Central	497 224 657	12 423 757	17 886 348	527 534 762	25 113 866
M. & St. L	65 330 900	1 869 020	426 246	67 626 166	363 865
M. St. P. & S. S. M	216 251 642	4 890 363	1 667 029	222 809 034	8 959 230
Q. O. & K. C	6 461 201	.....	.....	6 461 201	Def 176 274
Wabash	243 396 945	4 196 487	5 360 729	252 974 161	12 252 515
A. T. & S. F	827 628 763	23 843 753	32 248 314	883 720 830	45 606 325
B. S. L. & W	3 469 826	.....	72 358	3 542 184	233 789
C. R. I. & G	19 413 522	481 949	55 672	19 951 143	1 233 344
C. R. I. & P	392 665 629	11 071 031	5 707 765	409 444 425	16 693 040
Ft. W. & D. C	30 784 481	820 409	4 833 541	36 438 431	3 521 773
G. H. & S. A	84 301 196	2 980 418	1 252 201	88 533 815	3 983 557
G. C. & S. F	63 806 553	2 936 050	3 090 607	69 833 210	5 271 601
H. & S	1 139 661	.....	28 265	1 167 926	a
H. & T. C	47 001 914	1 406 194	550 295	48 958 403	2 120 304
H. E. & W. T	7 486 182	315 607	112 818	7 914 607	570 320
I. G. N	45 136 893	2 396 352	1 984 807	49 518 052	2 239 657
K. C. M. & O	22 254 305	388 427	807 385	23 450 117	56 572
K. C. M. & O. of Tex	6 903 461	76 685	.....	6 980 146	32 472
K. C. S	103 177 385	2 043 994	1 419 131	106 640 510	3 720 748
K. O. & G	18 821 086	201 149	245 708	19 267 943	6 359
K. O. & G. of Tex	371 781	1 096	5 074	377 951	a
L. R. & N. Co	22 897 031	463 771	130 363	23 491 165	31 199
L. R. & N. Co. of Tex	3 155 309	97 358	86 710	3 339 377	2 913
La. Western	10 168 168	.....	255 017	10 423 185	651 891
M. K. T	200 462 037	6 353 075	2 643 250	209 458 362	10 392 658

K. O. & G. of Tex	371 781	1 096	5 074	377 951	a
L. R. & N. Co	22 897 031	463 771	130 363	23 491 165	31 199
L. R. & N. Co. of Tex	3 155 309	97 358	86 710	3 339 377	2 913
La. Western	10 168 168	.....	255 017	10 423 185	651 891
M. K. T	200 462 037	6 353 075	2 643 250	209 458 362	10 392 658
M. K. T. of Tex	73 475 120	.....	704 065	74 179 185	2 432 966
Mo. Pac	418 392 110	12 007 235	4 887 237	435 286 582	18 013 064
M. L. & T	32 552 988	1 776 455	173 042	34 502 485	Def 71 966
N. O. T. & M	18 344 273	973 131	368 726	19 686 130	1 322 570
P. H. & S. F	29 032 647	800 938	219 505	30 053 090	2 788 766
St. L. B. & M	16 940 227	514 876	197 239	17 652 342	2 160 815
St. L. S. F	404 394 589	4 657 848	9 026 773	418 079 210	21 867 133
St. L. S. F. & Tex	3 256 348	272 243	69 594	3 598 185	296 988
St. L. S. W	80 737 530	2 279 295	3 771 482	86 788 307	4 176 561
St. L. S. W. of Tex	38 339 239	1 318 546	844 853	40 502 638	592 530
S. A. & A. P	26 327 477	1 029 997	656 362	28 013 836	b
T. & Ft. S	5 114 711	17 812	356 019	5 488 542	772 678
Texas & N. O	27 768 428	3 503 080	579 402	31 850 910	1 765 903
Texas & Pacific	136 684 234	4 072 950	4 509 716	145 266 900	5 974 105
V. S. & P	10 959 254	499 460	549 894	12 008 608	617 968

a—Data not available.
b—Included in G. H. & S. A
NOTE.—Property investment as of beginning of the year.

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1924

Property Investment and Net Railway Operating Income

Year Ended December 31, 1924

Railroad	Property investment, 701-702	Materials and supplies, 716	Cash, 708	Total property investment		Net railway operating income
Chicago & Alton	$149 244 904	$1 876 638	$2 412 294	$153 533 836		$4 394 793
C. & E. I	86 123 850	2 692 048	1 665 290	90 481 188		1 467 259
C. & N. W	484 818 748	14 847 278	22 055 633	521 721 659		16 784 051
C. B. & Q	564 276 870	24 457 394	9 777 131	598 511 395		28 742 112
C. G. W	137 091 552	1 672 475	1 418 142	140 182 169		2 234 046
C. M. & St. P	717 219 852	15 214 682	5 787 382	738 221 916		18 972 106
C. St. P. M. & O	87 508 451	2 250 873	1 566 367	91 325 691		3 408 989
Illinois Central	470 441 576	21 212 529	7 935 265	499 589 370		23 761 649
M. & St. L	65 066 442	1 649 115	682 072	67 397 629	Def	959 951
M. St. P. & S. S. M	212 863 879	5 241 717	506 236	218 611 832		6 776 158
Q. O. & K. C	6 499 366	.....	.....	6 499 366	Def	168 246
Wabash	233 957 893	5 790 715	3 276 986	243 025 594		9 347 780
A. T. & S. F	776 486 843	26 550 547	25 157 518	828 194 908		38 348 299
B. S. L. & W	3 379 409	.....	140 719	3 520 128		410 144
C. R. I. & G	19 115 041	303 996	58 633	19 477 670		1 522 199
C. R. I. & P	389 414 128	11 564 769	3 383 474	404 362 371		16 191 390
Ft. W. & D. C	30 418 296	961 017	1 968 673	33 347 986		3 832 662
G. H. & S. A	82 346 248	3 420 212	1 180 048	86 946 508		5 056 351
G. C. & S. F	63 419 914	3 320 014	2 325 270	69 065 198		6 241 010
H. & S	824 998	6 093	32 424	863 515		81 222
H. & T. C	45 745 755	1 482 672	519 560	47 747 987		2 521 887
H. E. & W. T	6 601 207	335 387	43 007	6 979 601		133 549
I. G. N	42 221 673	2 359 917	1 125 979	45 707 569		2 572 290
K. C. M. & O	22 314 908	260 975	312 118	22 888 001	Def	26 517
K. C. M. & O. of Tex	6 897 545	111 705	.....	7 009 250		168 719
K. C. S	101 894 687	2 285 791	1 731 497	105 911 975		3 021 319
K. O. & G	18 535 099	184 715	12 025	18 731 839		32 292
K. O. & G. of Tex	371 514	10 803	8 272	390 589		39 553
L. R. & N. Co	22 544 351	483 180	216 903	23 244 434	Def	255 291
L. R. & N. Co. of Tex	3 155 001	113 308	143 201	3 411 510	Def	49 710
La. Western	10 114 219	15 660	296 370	10 426 249		832 023
M. K. T	197 976 021	8 059 484	1 803 977	207 839 482		8 912 952

L. R. & N. Co	22 544 351	483 180	216 903	23 244 434	Def	255 291
L. R. & N. Co. of Tex	3 155 001	113 308	143 201	3 411 510	Def	49 710
La. Western	10 114 219	15 660	296 370	10 426 249		832 023
M. K. T.	197 976 021	8 059 484	1 803 977	207 839 482		8 912 952
M. K. T. of Tex	72 424 196	.....	695 804	73 120 000		3 674 546
Mo. Pac	399 630 349	13 963 480	1 904 094	415 497 923		15 817 584
M. L. & T	31 471 543	2 010 384	360 498	33 842 425	Def	97 950
N. O. T. & M	18 613 886	611 401	445 382	19 670 669		1 368 349
P. H. & S. F	27 587 915	679 127	278 366	28 545 408		2 693 970
St. L. B. & M	16 568 842	472 890	189 808	17 231 540		2 177 108
St. L. S. F	395 846 710	6 783 206	5 331 117	407 961 033		20 589 138
St. L. S. F. & Tex	3 223 356	397 954	55 593	3 676 903		221 809
St. L. S. W	79 527 913	2 265 014	1 985 679	83 778 606		4 160 359
St. L. S. W. of Tex	37 353 867	1 485 278	623 278	39 462 423		526 011
S. A. & A. P	25 432 422	917 727	828 716	27 178 865		752 236
T. & Ft. S	4 906 527	16 924	303 415	5 226 866		843 057
Texas & N. O	26 033 462	3 697 492	387 029	30 117 983		368 924
Texas & Pacific	132 597 718	4 681 830	2 552 058	139 831 606		5 801 611
V. S. & P	10 103 159	418 075	686 232	11 207 466		480 047

NOTE.—Property Investment as of beginning of the year.

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1923

Property Investment and Net Railway Operating Income
Year Ended December 31, 1923

Railroad	Property investment, 701-702	Materials and supplies, 716	Cash, 708	Total property investment	Net railway operating income
Chicago & Alton	$144 812 587	$1 348 836	$2 185 530	$148 346 953	$5 319 568
C. & E. I	83 565 341	2 293 883	1 069 708	86 928 932	3 324 116
C. & N. W	457 376 174	11 119 431	23 014 185	491 509 790	15 843 375
C. B. & Q	545 883 985	16 587 279	28 419 517	590 890 781	25 365 567
C. G. W	134 151 281	1 519 585	1 899 052	137 569 908	2 118 672
C. M. & St. P	697 674 890	13 330 148	5 681 897	716 686 935	20 167 713
C. St. P. M. & O	86 839 382	1 782 231	4 190 419	92 812 032	3 028 915
Illinois Central	419 562 924	13 022 310	10 469 752	443 054 986	22 906 244
M. & St. L	65 315 868	1 167 662	354 333	66 837 863	825 341
M. St. P. & S. S. M	208 036 152	4 647 485	4 143 520	216 827 157	8 204 096
Q. O. & K. C	6 403 466	.....	.....	6 403 466	Def. 180 299
Wabash	225 153 860	3 925 327	3 827 609	232 906 796	8 941 275
A. T. & S. F	728 350 197	25 193 164	36 169 633	789 712 994	40 815 194
B. S. L. & W	3 326 076	.....	176 546	3 502 622	362 274
C. R. I. & G	18 832 154	310 891	62 694	19 205 739	719 700
C. R. I. & P	375 364 494	9 910 884	6 286 958	391 562 336	14 121 464
Ft. W. & D. C	30 383 133	1 026 615	1 514 853	32 924 601	2 877 039
G. H. & S. A	80 867 440	2 485 159	1 428 952	84 781 551	2 281 547
G. C. & S. F	62 509 421	2 699 437	4 734 934	69 943 792	3 963 151
H. & S	806 293	Cr. 25 706	39 231	819 818	240 784
H. & T. C	45 320 076	769 099	479 074	46 568 249	2 069 211
H. E. & W. T	5 982 526	356 623	40 704	6 379 853	111 350
I. G. N	40 662 986	1 903 019	1 152 589	43 718 594	2 176 504
K. C. M. & O	22 262 277	268 182	312 734	22 843 193	50 510
K. C. M. & O. of Tex	6 900 454	87 434	.....	6 987 888	Def. 70 610
K. C. S	98 453 318	2 130 824	2 669 157	103 253 299	2 682 831
K. O. & G	18 185 265	173 500	402 612	18 761 377	245 275
K. O. & G. of Tex	371 812	5 165	8 357	385 334	Def. 10 629
L. R. & N. Co	22 270 698	458 989	249 378	22 979 065	129 676
L. R. & N. Co. of Tex	.....	.....	.....	.....	40 534
La. Western	10 093 352	23 417	290 796	10 407 565	932 135
M. K. T	197 485 046	4 226 001	619 668	202 330 715	7 641 334
M. K. T. of Tex	76 410 139	3 660 511	703 086	80 773 736	1 256 035
Mo. Pac	388 039 609	9 467 117	4 733 873	402 240 929	8 893 245

K. O. & G. of Tex	371 812	5 165	8 357	385 334	Def.	10 629
L. R. & N. Co	22 270 698	458 989	249 378	22 979 065		129 676
L. R. & N. Co. of Tex	.....	.....	.....	.....		40 534
La. Western	10 093 352	23 417	290 796	10 407 565		932 135
M. K. T	197 485 046	4 226 001	619 668	202 330 715		7 641 334
M. K. T. of Tex	76 410 139	3 660 511	703 086	80 773 736		1 256 035
Mo. Pac	388 039 609	9 467 447	4 733 873	402 240 929		8 893 245
M. L. & T	30 596 759	1 740 194	479 597	32 816 550		234 154
N. O. T. & M	18 211 441	478 778	658 886	19 349 105		1 176 275
P. H. & S. F	27 206 193	1 048 661	417 054	28 671 908		1 258 046
St. L. B. & M	16 393 985	548 071	342 048	17 284 104		1 905 563
St. L. S. F	379 860 373	6 967 618	5 118 215	391 946 206		18 484 458
St. L. S. F. & Tex	3 127 966	347 388	75 607	3 550 961		36 800
St. L. S. W	76 918 680	2 245 222	2 954 857	82 118 759		6 111 138
St. L. S. W. of Tex	35 209 888	1 587 688	352 181	37 149 757	Def.	546 337
S. A. & A. P	24 861 576	771 444	944 109	26 577 129		849 287
T. & Ft. S	4 851 629	.....	378 834	5 230 463		854 269
Texas & N. O	25 027 246	3 488 319	525 681	29 041 246	Def.	378 278
Texas & Pacific	127 767 726	4 598 070	3 876 096	136 241 892		5 237 535
V. S. & P	9 909 708	378 712	575 830	10 864 250		690 832

a—Operated by M. K. & T. Ry. prior to April 1, 1923. Net Railway Operating Income is for nine months ended December 31, 1923.
NOTE.—Property Investment as of beginning of the year.

1922

Property Investment and Net Railway Operating Income

Year Ended December 31, 1922

Railroad	Property investment, 701-702	Materials and supplies, 716	Cash, 708	Total property investment	Net railway operating income
Chicago & Alton	$143 880 763	$1 519 694	$880 065	$146 280 522	$1 532 188
C. & E. I	83 588 705	3 104 505	3 052 012	89 745 222	2 721 469
C. & N. W	455 584 636	12 401 142	22 240 899	490 226 677	17 036 305
C. B. & Q	526 045 661	21 350 910	9 307 988	556 704 559	25 152 174
C. G. W	133 670 893	1 813 594	2 457 896	137 942 383	265 187
C. N. & St. P	674 359 676	15 489 394	7 729 919	697 569 989	13 284 245
C. St. P. M. & O	86 370 096	1 830 742	1 969 362	90 170 200	3 812 671
Illinois Central	402 841 207	13 477 497	8 021 082	424 339 786	25 121 128
M. & St. L	65 297 069	1 340 502	395 860	67 033 431	883 800
M. St. P. & S. S. M	205 579 670	7 496 568	3 185 216	216 261 454	7 178 972
Q. O. & K. C	6 329 830	.....	.....	6 329 830	Def. 168 319
Wabash	223 666 773	5 150 410	3 265 896	232 083 079	4 107 421
A. T. & S. F	707 617 341	33 257 785	28 925 301	769 800 427	35 509 009
B. S. L. & W	3 284 855	.....	65 531	3 350 386	263 608
C. R. I. & G	18 590 496	344 469	46 077	18 981 042	722 101
C. R. I. & P	372 906 202	11 490 316	10 213 556	394 610 074	13 934 469
Ft. W. & D. C	28 526 338	1 230 708	2 293 107	32 050 153	2 438 054
G. H. & S. A	79 577 073	3 638 461	745 761	83 961 295	1 994 775
G. C. & S. F	61 648 645	3 222 989	4 428 531	69 300 165	4 192 458
H. & S	752 107	25 758	26 163	804 028	178 959
H. & T. C	45 003 863	1 378 830	632 129	47 014 822	2 022 081
H. E. & W. T	5 814 926	450 152	17 600	6 282 678	141 949
I. G. N	43 081 269	2 400 053	411 277	45 892 599	1 318 388
K. C. M. & O	22 234 426	287 936	697 897	23 220 259	Def. 151 222
K. C. M. & O. of Tex	6 893 017	108 461	.....	7 001 478	Def. 323 671
K. C. S	97 589 682	2 317 930	1 823 648	101 731 260	2 928 772
K. O. & G	13 255 607	198 502	239 947	13 694 056	526 254
K. O. & G. of Tex	376 126	6 187	1 189	383 502	Def. 1 851
L. R. & N. Co	21 982 211	374 330	222 325	22 578 866	88 637
L. R. & N. Co. of Tex. (a)	.....	.....	.....	.....	.....
La. Western	10 073 343	24 236	218 242	10 315 821	854 739
M. K. T	188 602 613	4 706 388	1 537 439	194 846 440	9 204 092
M. K. T. of Tex	72 888 667	4 183 885	1 674 108	78 746 660	1 280 467
Mo. Pac	382 277 853	11 221 087	1 041 091	[illegible]	[illegible]

K. O. & G. of Tex	376 126	6 187	1 189	383 502	Def. 1 851
L. R. & N. Co	21 982 211	374 330	222 325	22 578 866	88 637
L. R. & N. Co. of Tex. (a)	.....	.....	.....	.....	.....
La. Western	10 073 343	24 236	218 242	10 315 821	854 739
M. K. T	188 602 613	4 706 388	1 537 439	194 846 440	9 204 092
M. K. T. of Tex	72 888 667	4 183 885	1 674 108	78 746 660	1 280 467
Mo. Pac	382 277 853	11 221 087	1 941 991	395 440 931	8 247 035
M. L. & T	30 145 061	1 879 467	388 198	32 412 726	13 016
N. O. T. & M	17 964 873	585 089	539 006	19 088 968	1 344 567
P. H. & S. F	26 948 903	1 574 360	232 521	28 755 784	236 615
St. L. B. & M	16 271 631	580 592	198 429	17 050 652	1 142 882
St. L. S. F	374 049 124	7 583 982	6 584 279	388 217 385	15 490 000
St. L. S. F. & Tex	3 099 127	449 758	47 438	3 596 323	8 504
St. L. S. W	76 037 230	3 000 384	1 316 177	80 353 791	5 666 588
St. L. S. W. of Tex	34 395 610	2 030 491	414 989	36 841 090	Def. 1 279 763
S. A. & A. P	24 584 032	817 889	520 823	25 922 744	253 430
T. & Ft. S	4 779 866	.....	85 086	4 864 952	470 083
Texas & N. O	24 615 039	4 557 548	353 189	29 525 776	Def. 91 054
Texas & Pacific	125 607 102	5 512 628	2 360 271	133 480 001	3 629 472
V. S. & P	9 753 362	469 806	425 360	10 648 528	368 823

a—Operated by M. K. & T. Ry. prior to April 1, 1923.

NOTE.—Property investment as of beginning of the year.

1925

Railway Operating Revenue and Expenses

Year Ended December 31, 1925

Railroad	Average miles operated	Railway operating revenue	Railway operating expenses	Net revenue from railway operations	Operating ratio	Railway tax accruals	Uncollectible railway revenue
Chicago & Alton	1 055.92	$31 077 084	$23 426 972	$7 650 112	75.4%	$1 282 761	$8 257
C. & E. I	945.13	26 574 508	22 083 610	4 490 898	83.1%	1 395 000	11 642
C. & N. W	8 467.56	148 538 269	115 626 055	32 912 214	77.8%	10 004 224	46 873
C. B. & Q	9 398.62	159 155 178	116 671 869	42 483 309	73.3%	10 975 481	49 943
C. G. W	1 496.06	24 502 760	19 812 718	4 690 042	80.9%	1 000 262	3 849
C. M. & St. P	11 204.99	162 020 693	130 449 632	31 571 061	80.5%	8 938 834	66 064
C. St. P. M. & O	1 845.19	26 850 133	21 480 708	5 369 425	80.0%	1 553 004	18 328
Illinois Central	4 874.95	153 503 185	117 904 258	35 598 927	76.8%	10 907 474	34 444
M. & St. L	1 634.77	15 074 273	13 220 168	1 854 105	87.7%	760 858	3 032
M. St. P. & S. S. M	4 401.57	49 670 264	36 075 537	13 594 727	72.6%	3 264 545	7 687
Q. O. & K. C	250.84	1 010 855	1 093 490	Def. 82 635	108.2%	56 597	19
Wabash	2 524.20	69 910 301	51 080 424	18 829 877	73.1%	3 287 580	7 069
A. T. & S. F	9 190.49	196 439 057	134 797 467	61 641 590	68.6%	15 906 421	57 211
B. S. L. & W	118.75	2 083 705	1 855 015	948 690	66.2%	93 786	5 599
C. R. I. & G	459.91	6 284 573	4 527 790	1 756 783	72.0%	286 820	1 702
C. R. I. & P	7 568.63	124 398 673	96 241 697	28 156 976	77.4%	6 750 950	74 342
Ft. W. & D. C	476.24	11 504 381	7 155 031	4 349 350	62.2%	724 668	3 444
G. H. & S. A	2 101.62	29 540 520	23 358 920	6 181 600	79.1%	1 346 497	26 913
G. C. & S. F	1 908.84	29 252 164	21 495 878	7 756 286	73.5%	1 102 752	10 779
H. & S	a	.....	.....	.....	.....	.....	.....
H. & T. C	929.19	14 775 807	11 242 464	3 533 343	76.1%	823 455	7 318
H. E. & W. T	191.60	3 387 763	2 443 042	944 721	72.1%	156 286	2 144
I. G. N	1 159.50	17 083 748	13 517 750	3 565 998	79.1%	515 759	2 067
K. C. M. & O	272.20	2 411 096	2 278 996	132 100	94.5%	75 988	1 101
K. C. M. & O. of Tex	465.75	3 189 212	2 626 284	562 928	82.3%	83 619	1 712
K. C. S	777.63	18 231 458	12 944 903	5 286 555	71.0%	1 155 133	8 804
K. O. & G	314.42	2 518 478	2 259 591	258 887	89.7%	106 429	672
K. O. & G. of Tex	a	.....	.....	.....	.....	.....	.....
L. R. & N. Co	337.63	3 859 607	3 185 713	673 894	82.5%	253 302	2 006
L. R. & N. Co. of Tex	206.08	1 347 257	1 090 770	256 487	81.0%	46 868	340
La. Western	207.74	4 274 112	3 164 405	1 109 707	74.0%	329 760	1 006
M. K. T	1 799.31	35 325 003	22 861 649	12 463 354	64.7%	2 135 140	13 585
M. K. T. of Tex	1 389.23	22 167 911	16 756 479	5 411 432	75.6%	732 450	11 839
Mo. Pac	7 337.62	130 831 661	102 276 499	28 555 162	78.2%	5 266 438	35 485
M. L. & T	400.67	8 503 946	7 569 522	934 424	89.0%	600 252	5 983

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Railway Operating Revenue and Expenses

Year Ended December 31, 1925

Railway operating revenue	Railway operating expenses	Net revenue from railway operations	Operating ratio	Railway tax accruals	Uncollectible railway revenue	Equipment rents, net debit	Joint facility rents, net debit	Railway operating income
$31 077 084	$23 426 972	$7 650 112	75.4%	$1 282 761	$8 257	$979 443	$831 780	$4 547 871
26 574 508	22 083 610	4 490 898	83.1%	1 395 000	11 642	599 808	336 181	2 148 267
148 538 269	115 626 055	32 912 214	77.8%	10 004 224	46 873	1 521 556	230 811	21 108 750
159 155 178	116 671 869	42 483 309	73.3%	10 975 481	49 943	1 316 139	2 009 829	28 131 917
24 502 760	19 812 718	4 690 042	80.9%	1 000 262	3 849	701 535	896 483	2 087 913
162 020 693	130 449 632	31 571 061	80.5%	8 938 834	66 064	3 351 758	2 340 769	16 873 636
26 850 133	21 480 708	5 369 425	80.0%	1 553 004	18 328	172 029	404 445	3 221 619
153 503 185	117 904 258	35 598 927	76.8%	10 907 474	34 444	Cr. 580 769	123 912	25 113 866
15 074 273	13 220 168	1 854 105	87.7%	760 858	3 032	628 022	98 328	363 865
49 670 264	36 075 537	13 594 727	72.6%	3 264 545	7 687	694 153	669 112	8 959 230
1 010 855	1 093 490	Def. 82 635	108.2%	56 597	19	11 213	25 810	Def. 176 274
69 910 301	51 080 424	18 829 877	73.1%	3 287 580	7 069	1 898 674	1 384 039	12 252 515
196 439 057	134 797 467	61 641 590	68.6%	15 906 421	57 211	Cr. 566 123	637 756	45 606 325
2 083 705	1 855 015	948 690	66.2%	93 786	5 599	479 215	136 301	233 789
6 284 573	4 527 790	1 756 783	72.0%	286 820	1 702	195 343	39 574	1 233 344
124 398 673	96 241 697	28 156 976	77.4%	6 750 950	74 342	3 241 482	1 397 162	16 693 040
11 504 381	7 155 031	4 349 350	62.2%	724 668	3 444	78 771	20 694	3 521 773
29 540 520	23 358 920	6 181 600	79.1%	1 346 497	26 913	909 820	Cr. 85 187	3 983 557
29 252 164	21 495 878	7 756 286	73.5%	1 102 752	10 779	1 280 902	90 252	5 271 601
.....	.....	.....	.....	.....	.....	.....	.....	.....
14 775 807	11 242 464	3 533 343	76.1%	823 455	7 318	786 133	Cr. 203 867	2 120 304
3 387 763	2 443 042	944 721	72.1%	156 286	2 144	206 254	9 717	570 320
17 083 748	13 517 750	3 565 998	79.1%	515 759	2 067	741 500	67 015	2 239 657
2 411 096	2 278 996	132 100	94.5%	75 988	1 101	Cr. 15 848	14 287	56 572
3 189 212	2 626 284	562 928	82.3%	83 619	1 712	445 050	75	32 472
18 231 458	12 944 903	5 286 555	71.0%	1 155 133	8 804	228 764	173 106	3 720 748
2 518 478	2 259 591	258 887	89.7%	106 429	672	145 938	Cr. 511	6 359
.....	.....	.....	.....	.....	.....	.....	.....	.....
3 859 607	3 185 713	673 894	82.5%	253 302	2 006	399 797	Cr. 12 410	31 199
1 347 257	1 090 770	256 487	81.0%	46 868	340	153 424	52 942	2 913
4 274 112	3 164 405	1 109 707	74.0%	329 760	1 006	109 044	18 006	651 891
35 325 003	22 861 649	12 463 354	64.7%	2 135 140	13 585	Cr. 488 166	410 137	10 392 658
22 167 911	16 756 479	5 411 432	75.6%	732 450	11 839	1 964 844	269 333	2 432 966
130 831 661	102 276 490	28 555 162	78.2%	5 266 438	35 485	3 919 458	1 329 717	18 913 961

R. O. & G. of Tex.	a						
L. R. & N. Co.	337.63	3 859 607	3 185 713	673 894	82.5%	253 302	2 006
L. R. & N. Co. of Tex.	206.08	1 347 257	1 090 770	256 487	81.0%	46 868	340
La. Western	207.74	4 274 112	3 164 405	1 109 707	74.0%	329 760	1 006
M. K. T.	1 799.31	35 325 003	22 861 649	12 463 354	64.7%	2 135 140	13 585
M. K. T. of Tex.	1 389.23	22 167 911	16 756 479	5 411 432	75.6%	732 450	11 839
Mo. Pac.	7 337.62	130 831 661	102 276 499	28 555 162	78.2%	5 266 438	35 485
M. L. & T.	400.67	8 503 946	7 569 522	934 424	89.0%	609 352	5 863
N. O. T. & M.	191.22	3 442 446	2 578 406	864 040	74.9%	241 187	7 887
P. H. & S. F.	863.88	11 251 307	7 248 383	4 002 924	64.4%	555 868	3 575
St. L. B. & M.	550.22	8 169 097	5 179 661	2 989 436	63.4%	396 209	4 284
St. L. S. F.	4 916.26	90 058 611	62 327 124	27 731 487	69.2%	4 901 633	38 269
St. L. S. F. & Tex.	137.95	2 204 156	1 578 073	626 083	71.6%	28 679	1 587
St. L. S. W.	943.02	18 232 233	12 372 182	5 860 051	67.9%	803 483	2 193
St. L. S. W. of Tex.	807.20	7 900 029	7 553 676	346 353	95.6%	332 906	3 339
S. A. & A. P.	b						
T. & Ft. S.	81.08	2 933 697	1 640 900	1 292 797	55.9%	195 435	910
Texas & N. O.	541.49	11 095 852	8 533 534	2 562 318	76.9%	383 642	4 302
Texas & Pacific	1 952.96	35 272 899	26 453 802	8 819 097	75.0%	1 917 500	34 906
V. S. & P.	188.46	4 552 076	3 451 947	1 100 129	75.8%	322 621	1 127

a—Data not available.
b—Data shown for G. H. & S. A. includes S. A. & A. P.

3 859 607	3 185 713	673 894	82.5%	253 302	2 006		399 797	Cr. 12 410	31 199
1 347 257	1 090 770	256 487	81.0%	46 868	340		153 424	52 942	2 913
4 274 112	3 164 405	1 109 707	74.0%	329 760	1 006		109 044	18 006	651 891
35 325 003	22 861 649	12 463 354	64.7%	2 135 140	13 585	Cr.	488 166	410 137	10 392 658
22 167 911	16 756 479	5 411 432	75.6%	732 450	11 839		1 964 844	269 333	2 432 966
130 831 661	102 276 499	28 555 162	78.2%	5 266 438	35 485		3 910 458	1 329 717	18 013 064
8 503 946	7 569 522	934 424	89.0%	609 352	5 863		311 705	79 470	Def 71 966
3 442 446	2 578 406	864 040	74.9%	241 187	7 887	Cr.	709 934	2 330	1 322 570
11 251 307	7 248 383	4 002 924	64.4%	555 868	3 575		613 914	40 801	2 788 766
8 169 097	5 179 661	2 989 436	63.4%	396 209	4 284		295 545	130 583	2 160 815
90 058 611	62 327 124	27 731 487	69.2%	4 901 633	38 269		844 369	80 083	21 867 133
2 204 156	1 578 073	626 083	71.6%	28 679	1 587		145 647	153 182	296 988
18 232 233	12 372 182	5 860 051	67.9%	803 483	2 193		15 627	862 187	4 176 561
7 900 029	7 553 676	346 353	95.6%	332 906	3 339	Cr.	173 447	Cr. 408 975	592 530
2 933 697	1 640 900	1 292 797	55.9%	195 435	910		358 552	Cr. 34 778	772 678
11 095 852	8 533 534	2 562 318	76.9%	383 642	4 302		374 256	34 215	1 765 903
35 272 899	26 453 802	8 819 097	75.0%	1 917 500	34 906		835 131	57 455	5 974 105
4 552 076	3 451 947	1 100 129	75.8%	322 621	1 127		153 905	4 508	617 968

A. & A. P.

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1925

Freight Traffic Statistics

Year Ended December 31, 1925

	Western trunk lines	Texas and Louisiana lines	Other Southwestern lines	All Southwestern lines
Average Miles of Road Operated (Freight Service)	47 850	14 366	34 335	48 701
Freight Revenue	$655 159 021	$174 139 268	$483 405 600	$657 544 868
Ton Miles Revenue Freight	63 913 460 000	12 823 916 000	39 074 949 000	51 899 865 000
Revenue Per Ton Mile—Mills	10.24	13.58	12.37	12.67
Average per mile of road				
Freight Revenue	$13 692	$12 122	$14 079	$13 502
Ton Miles Revenue Freight	1 335 704	892 657	1 138 050	1 065 663

NOTE.—The grouping of railroads used in this exhibit is the same as shown on page 5 of Exhibit A-54, except—
"Texas and Louisiana Lines" and "All Southwestern Lines" include F. & A.—I. & V.—L. C. & N.—O. & N. W.
"Other Southwestern Lines" include C. R. I. & G.—Panhandle & Santa Fe and Texarkana & Fort Smith.

1925

Freight Traffic Statistics

Year Ended December 31, 1925

Railroad	Average miles of road operated (freight service)	Freight revenue (account 101)	Ton-miles revenue freight	Revenue per ton-mile, mills
Chicago & Alton	1 021.94	$21 827 472	2 143 419 000	10.18
C. & E. I	945.13	19 924 410	2 354 728 000	8.46
C. & N. W	8 467.56	104 888 463	8 286 548 000	12.66
C. B. & Q	9 333.23	118 670 808	12 298 288 000	9.65
C. G. W	1 459.87	18 884 285	1 966 894 000	9.58
C. M. & St. P	11 201.47	125 671 654	11 966 830 000	10.50
C. St. P. M. & O	1 822.23	19 566 923	1 579 746 000	12.39
Illinois Central	4 845.07	117 239 589	13 309 895 000	8.81
M. & St. L	1 632.77	13 021 838	1 216 604 000	10.70
M. St. P. & S. S. M	4 372.91	39 419 822	3 509 842 000	11.23
Q. O. & K. C	250.84	724 224	47 119 000	15.37
Wabash	2 496 97	55 329 533	5 233 547 000	10.57
A. T. & S. F (b)	10 054.37	150 520 331	11 474 824 000	13.12
B. S. L. & W (c)	.....	.....	.....	.....
C. R. I. & G (d)	.....	.....	.....	.....
C. R. I. & P (d)	8 028.21	95 923 398	7 912 864 000	12.12
Ft. W. & D. C	474.41	8 480 189	571 349 000	14.84
G. H. & S. A (e)	.....	.....	.....	.....
Gulf Coast Lines (c)	921.74	11 787 381	853 294 000	13.81
G. C. & S. F	1 897.07	24 347 900	2 386 980 000	10.20
H. & S (e)	.....	.....	.....	.....
H. & T. C (e)	.....	.....	.....	.....
H. E. W. & T (e)	.....	.....	.....	.....
I. G. N	1 159.50	13 176 199	775 016 000	17.00
K. C. M. & O	272.20	2 215 857	163 368 000	13.56
K. C. M. & O. of Tex	465.75	2 892 846	166 764 000	17.35
K. C. S (f)	848.78	17 439 572	1 592 311 000	10.95
K. O. & G	314.42	2 384 285	187 810 000	12.70
K. O. & G. of Tex (a)				

K. O. & G.	314.42	2 384 285	187 810 000	12.70
K. O. & G. of Tex. (a)	.....	.....	.....	.....
L. R. & N. Co.	334.46	3 407 690	223 770 000	15.23
L. R. & N. of Tex.	204.77	1 172 926	79 953 000	14.67
La. Western (e)	.....	.....	.....	.....
M. K. T.	1 787.16	27 849 538	2 074 062 000	13.43
M. K. T. of Tex.	1 389.23	15 928 105	1 243 033 000	12.81
Mo. Pac.	7 277.85	104 319 277	9 564 443 000	10.91
M. L. & T. (e)	.....	.....	.....	.....
N. O. T. & M. (c)	.....	.....	.....	.....
P. H. & S. F. (b)	.....	.....	.....	.....
St. L. B. & M. (c)	.....	.....	.....	.....
St. L. S. F.	4 822.66	67 094 090	4 976 312 000	13.48
St. L. S. F. & Tex.	137.95	1 971 407	86 459 000	22.80
St. L. S. W.	929.70	15 659 252	1 128 955 000	13.87
St. L. S. W. of Tex.	807.20	6 434 299	345 796 000	18.61
S. A. & A. P. (e)	.....	.....	.....	.....
Southern Pacific (e)	4 432.14	55 006 382	4 096 752 000	13.43
T. & Ft. S. (f)	.....	.....	.....	.....
Texas & N. O. (e)	.....	.....	.....	.....
Texas & Pacific	1 952.96	26 051 237	1 755 271 000	14.84
V. S. & P.	188.46	3 482 707	239 479 000	14.54

a—Data not available.
b—Data shown for A. T. & S. F. includes Panhandle & Santa Fe.
c—Data shown for Gulf Coast Lines includes B. S. L. & W—N. O. T. & M.—O. & N. W.—St. L. B. & M.
d—Data shown for C. R. I. & P. includes C. R. I. & G.
e—Data shown for Southern Pacific Lines in Texas and Louisiana includes:
F. & A.—G. H. & S. A.—H. & S.—H. & T. C.—H. E. & W. T.—I. & V.—L. C. & N.—Louisiana Western—M. L. & T.—S. A. & A. P. and T. & N. O.
f—Data shown for K. C. S. includes Texarkana & Fort Smith.

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Miscellaneous Freight Service Revenue

(Accounts 110, 112, 135, 137, 139, and 140)

1922-1923

Railroad	Year ended December 31, 1922	Year ended December 31, 1923	Railroad	Year ended December 31, 1922	Year ended December 31, 1923
Chic ago & Alton	$551 951	$573 421	K. C. M. & O	$20 014	$15 819
C. & E. I	348 191	371 616	K. C. M. & O. of Tex	9 046	8 967
C. & N. W	3 153 851	3 643 556	K. C. S	740 724	830 378
C. B. & Q	3 278 071	3 721 464	K. O. & G	23 406	19 865
C. G. W	367 084	391 410			
			K. O. & G. of Tex	216	292
C. M. & St. P	3 563 995	4 349 277	L. R. & N	82 268	85 501
C. St. P. M. & O	346 695	342 958	L. R. & N. Co. of Tex	.....	a 10 830
Illinois Central	2 227 464	2 647 713	La. Western	24 583	26 418
M. & St. L	194 653	246 963	M. K. T	371 764	466 361
M. St. P. & S. S. M	421 254	438 097			
			M. K. T. of Tex	260 464	267 014
Q. O. & K. C	6 258	6 774	Mo. Pac	2 000 786	2 275 214
Wabash	1 126 547	1 566 460	M. L. & T	174 646	190 042
			N. O. T. & M	13 104	9 080
A. T. & S. F	1 748 281	1 966 225	P. H. & S. F	28 462	24 472
B. S. L. & W	11 185	14 812			
C. R. I. & G	113 808	112 469	St. L. B. & M	21 579	30 995
C. R. I. & P	1 223 527	1 339 150	St. L. S. F	1 207 484	1 409 312
F. W. & D. C	73 165	89 087	St. L. S. F. & Tex	19 025	14 599
			St. L. S. W	124 194	155 187
G. H. & S. A	96 399	232 764	St. L. S. W. of Tex	75 673	95 860
G. C. & S. F	270 597	239 206			
H. & S	9 000	12 590	S. A. & A. P	57 867	73 359
H. & T. C	202 999	194 743	T. & Ft. S	82 328	135 761
H. E. & W. T	31 407	39 587	Texas & N. O	125 578	174 046
			Texas & Pacific	245 970	310 103
I. G. N	438 692	529 495	V. S. & P	64 239	78 551

a—For nine months ended December 31, 1923.

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Corrections in Exhibits A-52 and A-53

	Exhibit A-52				Exhibit A-53	
	Year ended December 31, 1923				Year ended December 31, 1922	
	Chicago & Alton R. R.		Missouri-Kansas-Texas R. R.		Missouri-Kansas-Texas R. R. of Texas	
	Exhibit reads	Correct to read	Exhibit reads	Correct to read	Exhibit reads	Correct to read
Page 3:						
Freight Revenue	.....	.....	$20 522 029	$25 722 029	$14 002 696	$14 602 696
Net Freight Revenue	.....	.....	1 735 255	6 935 255	2 652 383	3 252 383
Operating Ratio—Freight	.....	.....	91.54%	73.04%	81.06%	77.73%
Page 4:						
Tons Revenue Freight	13 499 429	13 507 046	.....	.....	.....	.....
Ton Miles Revenue Freight	2 435 688 198	2 436 637 051	.....	.....	.....	.....
Freight Revenue per Ton	$1.791	$1.779	$2.739	$3.433	.....	.....
Revenue Per Ton Mile—Mills	.....	.....	10.72	13.44	16.56	17.27
Averages Per Loaded Freight Car Mile:						
Revenue	.....	.....	21.4c	26.8c	31.5c	32.8c
Expenses	.....	.....	19.6c	19.6c	25.5c	25.5c
Net Revenue	.....	.....	1.8	7.2	6.0	7.3
Freight Revenue and Expenses Per 1 000 000 Net Ton Miles:						
Revenue	$9 865	$9 861	$10 723	$13 440	$16 562	$17 272
Expenses	7 585	7 582	9 816	9 816	13 425	13 425
Net Revenue	2 280	2 279	907	3 624	3 137	3 847
Page 5:						
Averages per Mile of Road:						
Ton Miles Revenue Freight	2 318 820	2 319 723	.....	.....	.....	.....
Freight Revenue	.....	.....	$11 396	$14 284	$8 057	$8 403
Operating Expenses—Freight	.....	.....	10 432	10 432	6 531	6 531
Net Freight Revenue			964	3 852	1 526	1 872
Page 6:						
Averages per Freight Train Mile:						
Tons Revenue Freight	592	593	.....	.....		

I. C. C. Docket 15234

Corrections in Exhibits A-52 and A-53

	Exhibit A-52				Exhibit A-53	
	Year ended December 31, 1923				Year ended December 31, 1922	
	Chicago & Alton R. R.		Missouri-Kansas-Texas R. R.		Missouri-Kansas-Texas R. R. of Texas	
	Exhibit reads	Correct to read	Exhibit reads	Correct to read	Exhibit reads	Correct to read
Page 3:						
Freight Revenue	.....	.....	$20 522 029	$25 722 029	$14 002 696	$14 602 696
Net Freight Revenue	.....	.....	1 735 255	6 935 255	2 652 383	3 252 383
Operating Ratio—Freight	.....	.....	91.54%	73.04%	81.06%	77.73%
Page 4:						
Tons Revenue Freight	13 499 429	13 507 046	.....	.....	.....	.....
Ton Miles Revenue Freight	2 435 688 198	2 436 637 051	.....	.....	.....	.....
Freight Revenue per Ton	$1.791	$1.779	$2.739	$3.433	.....	.....
Revenue Per Ton Mile—Mills	.....	.....	10.72	13.44	16.56	17.27
Averages Per Loaded Freight Car Mile:						
Revenue	.....	.....	21.4c	26.8c	31.5c	32.8c
Expenses	.....	.....	19.6c	19.6c	25.5c	25.5c
Net Revenue	.....	.....	1.8	7.2	6.0	7.3
Freight Revenue and Expenses Per 1 000 000 Net Ton Miles:						
Revenue	$9 865	$9 861	$10 723	$13 440	$16 562	$17 272
Expenses	7 585	7 582	9 816	9 816	13 425	13 425
Net Revenue	2 280	2 279	907	3 624	3 137	3 847
Page 5:						
Averages per Mile of Road:						
Ton Miles Revenue Freight	2 318 820	2 319 723	.....	.....	.....	.....
Freight Revenue	.....	.....	$11 396	$14 284	$8 057	$8 403
Operating Expenses—Freight	.....	.....	10 432	10 432	6 531	6 531
Net Freight Revenue			964	3 852	1 526	1 872
Page 6:						
Averages per Freight Train Mile:						
Tons Revenue Freight	592	593	.....	.....		
Revenue	.....	.....	$6.30	$7.90	$5.98	$6.23
Expenses	.....	.....	5.77	5.77	4.85	4.85

Year ended December 31, 1923

	Western Trunk lines		Other Southwestern lines		All Southwestern lines		Other S
	Exhibit reads	Correct to read	Exhibit reads	Correct to read	Exhibit reads	Correct to read	Exhibit r
Page 2:							
Freight Revenue			$431 716 813	$436 916 813	$598 209 063	$603 409 063	$402 851
Net Freight Revenue			92 903 554	98 103 554	126 309 742	131 509 742	94 435
Tons Revenue Freight	296 923 381	296 930 998					
Ton Miles Revenue Freight	66 773 236 714	66 774 185 567					
Page 3:							
Averages per Mile of Road							
Freight Revenue			$18 201	$13 360	$12 344	$12 452	$12
Net Freight Revenue			2 841	3 000	2 606	2 714	2
Ton Miles Revenue Freight	1 398 978	1 398 998					
Averages per Million Revenue Net Ton Miles:							
Freight Revenue			$12 745	$12 898	$13 095	$13 209	$13
Net Freight Revenue			2 743	2 896	2 765	2 879	3
Page 4:							
Averages per Freight Train Mile:							
Freight Revenue			$6.20	$6.27	$6.27	$6.33	$
Operating Expenses—Freight			4.86	4.86	4.95	4.95	
Net Freight Revenue			1.34	1.41	1.32	1.38	
Averages per Loaded Freight Car Mile:							
Freight Revenue			25.5c	25.7c	26.4c	26.6c	
Operating Expenses—Freight			20.0	20.0	20.8	20.8	
Net Freight Revenue			5.5	5.7	5.6	5.8	
Miscellaneous Averages:							
Revenue Per Ton of Freight			$3.118	$3.156	$2.693	$2.717	$
Revenue Per Ton Mile—Mills			12.74	12.90	13.09	13.21	

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Corrections in Exhibit A-54

ded December 31, 1923					Year ended December 31, 1922			
k lines	Other Southwestern lines		All Southwestern lines		Other Southwestern lines		All Southwestern lines	
rrect to read	Exhibit reads	Correct to read	Exhibit reads	Correct to read	Exhibit reads	Correct to read	Exhibit reads	Correct to read
.....	$431 716 813	$436 916 813	$598 209 063	$603 409 063	$402 851 058	$403 451 058	$559 243 882	$559 843 882
.....	92 903 554	98 103 554	126 309 742	131 509 742	94 435 810	95 035 810	122 429 082	123 029 082
296 930 998	.....	.....	.....	.....	.....	.....	.....	.....
774 185 567	.....	.....	.....	.....	.....	.....	.....	.....
.....	$13 201	$13 360	$12 344	$12 452	$12 385	$12 403	$11 569	$11 581
.....	2 841	3 000	2 606	2 714	2 903	2 921	2 533	2 545
1 398 998	.....	.....	.....	.....	.....	.....	.....	.....
.....	$12 745	$12 898	$13 095	$13 209	$13 695	$13 716	$13 984	$14 000
.....	2 743	2 896	2 765	2 879	3 210	3 231	3 061	3 077
.....	$6.20	$6.27	$6.27	$6.33	$6.51	$6.52	$6.54	$6.55
.....	4.86	4.86	4.95	4.95	4.98	4.98	5.11	5.11
.....	1.34	1.41	1.32	1.38	1.53	1.54	1.43	1.44
.....	25.5c	25.7c	26.4c	26.6c	27.0c	27.1c	27.9c	28.0c
.....	20.0	20.0	20.8	20.8	20.7	20.7	21.8	21.8
.....	5.5	5.7	5.6	5.8	6.3	6.4	6.1	6.2
.....	$3.118	$3.156	$2.693	$2.717	$3.422	$3.427	$2.936	$2.939
.....	12.74	12.90	13.09	13.21	13.70	13.72	13.98	14.00

[fol. 1262] Cross-examination:

What I said about Mr. Press' exhibits including railroads such as the D. S. S. & A. and the L. S. & I. and the E. J. & E. in the Western Trunk Group and certain short lines in Southwestern Territory such as the M. & N. A. and the Midland Valley was not said in criticism, but I pointed out the difference between the two groups as set up in the two exhibits. The lines in the Southwestern Group were not respondents in this proceeding and the lines such as the E. J. & E. in Western Trunk Line are not respondents. It is a fact that in the division of the joint rates between the two territories on traffic moving over either the lines in question in Western Trunk Line Territory or the lines in question in Southwestern Territory. Those lines participate in the total joint through revenue by some scheme or another (Tr. 5669).

Q. Well, if your theory is that they are not respondents in the case wouldn't it be proper that they should be excluded from any order made in the case or rather that the traffic originating or destined to any of these lines not respondents should not be made subject to any order in this proceeding.

Attorney Towner here objected to the question on the ground that it was a question of law, but after discussion said that if it was a traffic question the witness might answer (Tr. 5670).

The Witness: I think the Commission can fix the divisions north and south of the principal gateways with reference to the territories and they have defined them in this proceeding. If the Commission fixes the divisions between these territories north and south of the principal gateways it necessarily will effect any lines and connections of this [fol. 1263] carrier that participate in joint rates. So far as Western Trunk Line all these short roads receive a part or a proportion of whatever revenue may fall north of the junction. I do not know what your arrangements with the Southwestern short lines may be, but presumably they are of the same nature (Tr. 5670-5671).

In some cases the divisions of the E. J. & E. and the Duluth, South Shore and other lines to the extent they par-

ticipate in this traffic or rather their revenue would be very slight changed by an order increasing the Western Trunk Line divisions and in other cases it would depend upon the nature of the division as to whether they received a minimum division which is now the measure of their earnings. Where they received a percentage it would be affected by any change in the revenue to which that per cent was applied. I made my exhibit up confining it to those carriers that by the Commission's order were made respondents here. There is quite a movement of steel and iron products from the Chicago district to Southwestern Territory and the E. J. & E. participates in the greater part of that. How much it may amount to I don't know, but it is a very small part of the total freight revenue of the E. J. & E. (Tr. 5671-5672).

The freight traffic interchanged between Western Trunk Lines and Southwestern Lines is a very small proportion of the entire traffic of the Western Trunk Lines. I think the figure that was put in the record here was 2½ per cent. In its volume it is pretty important traffic, nevertheless; but to state it in percentage it is not a very large percentage (Tr. 5672-5673).

I do not know why the particular lines that are respondents in this proceeding were named. I have not sufficient knowledge on the subject to answer the question. I don't [fol. 1264] know what the fact is. Probably the Commission itself must know but I proceeded from the orders that the Commission entered. The list of respondents was what I used in filing my exhibits.

The following is quoted verbatim from the transcript of testimony:

Q. Isn't it within your knowledge that the list as made up was probably suggested by the Western Trunk Lines to the Interstate Commerce Commission?

Exam. Disque: That list was made up by Mr. Potter and myself. We did not want to bring in the short lines in different parts of the west and have them petitioning us for increased division. This was started as a trunk line railroad proposition. It was started as a porposition to settle the disputes between the important carriers and that is the

reason we left out the small ones, also for the reason that we thought that it would simplify the case. Any divisions fixed for the large lines would ultimately control the divisions fixed for their smaller sisters. I might also say, as I remember it this case when first initiated with the Commission, the Commission had in mind that in the large divisional matters that might arise in the west it was necessarily to be confined to transcontinental situations. If there is any further explanation you want from me——

By Mr. Larimore:

Q. Was Mr. Potter on the Commission at that time?

Exam. Disque: Mr. Potter was on the Commission for a considerable time after that.

Mr. Larimore: I wanted the record to show that.

Exam. Disque: He was not an advocate for the Chicago, Milwaukee & St. Paul at that time (Tr. 5673-5674).

[fol. 1265] On Exhibits A-51 to A-54 the same division was made as to Texas and Louisiana lines and on the Southwestern Lines as was made in Exhibit A-241. There is a complete list of the roads in each group as I have grouped them on the last page of Exhibit A-54. I sought to group the roads where I could by geographical location. It so happens that many of the separately reported roads, particularly in Texas, operate either wholly or chiefly in that state, so it was possible to make a group that was fairly representative of the Texas lines. Louisiana is hardly a parallel case because there are only six lines operating, some less than 1,400 miles that could be classed strictly as Louisiana lines. The larger roads in that state appear in the group of "Other Southwestern Lines." It would be pretty hard to pick out the roads by states in Western Trunk Line Territory (Tr. 5675).

The southwestern short lines that I have named as having been left out of my computation represent a considerable mileage, but just what it is I have not figured out. As to whether or not the conditions existing on those lines have to be taken into consideration when considering the conditions in the Southwest; I think we have the principal trunk lines in the two territories and the comparison of the

results and the conditions of those two groups of the trunk lines gives about as complete a picture and as definite and fair a comparison to the conditions of the two territories as we could get. The operations of the short lines have some effect upon the rate level, for example. How much, of course, I don't know. I presume that most of the lines I have left out are weak lines. I have in mind one or two of them, the M. & N. A., but as to the general condition of all I do not know. I do not know whether the T. & B. V. is in receivership (Tr. 5676).

In Exhibit A-241 I have shown the total property in- [fol. 1266] vestment for the Southern Pacific Lines in Texas and Louisiana as $223,351,331 and that this was greater than the amount shown on page 8 of Exhibit A-124 by $1,167,926. I have explained that that difference was the property investment of the Houston and Shreveport which is included in my exhibit but not included in Exhibit A-124. The purpose of the statement was to explain the difference between the two exhibits as to those two roads. The only Southern Pacific Lines I have included in my figures are those shown on page 14 of Exhibit A-241 (Tr. 5677).

I did not check many of Mr. Sauer's computations based on Exhibit A-60, but where I did I found them correct. His exhibits set out the percentage, he undertook to show by percentages the relation of the revenues received by the Southwestern lines on traffic moving during June and October 1924 to the revenue which they would have received on the basis of a mileage prorate. My exhibit states it in another way by showing the constructive miles represented by their divisions compared with the actual mileages in western trunk line territory. In my exhibit it is a relation stated on a mileage basis, where his exhibit states it in a percentage of revenue. The ratio of the two comparisons would be the same. My exhibit was based on certain corrections in connection with Exhibit A-60; corrections in the statement of ton miles and revenue in the oil traffic from Oklahoma which made a slight difference in the figures in Exhibit A-196, and I used the corrected figures based upon those changes. The percentages or relations shown on my Exhibit A-242 would be a little higher than the figures shown on Mr. Sauer's Exhibit. The purpose of this exhibit was to

complete the comparison because Mr. Sauer in his exhibit only showed the percentage of mileage prorate that the [fol. 1267] Southwestern Lines received but he did not show the corresponding figure for the Western Trunk Lines, so no comparison was made. I do not show the percentage of the Western Trunk Line revenue. The exhibit is based upon taking each mile of haul of the Western Trunk Line and showing what revenue accrued to the Southwestern roads represented in constructive miles on the basis of actual miles in Western Trunk Line territory.

Q. I understand from your exhibit on page 4 under the present divisions on all carload traffic shown on exhibit A-60 that the Southwestern Lines receive 29 per cent more revenue than the Western Trunk Lines, in other words, the revenue of the Southwestern Lines is 129 per cent of that of the Western Trunk Line revenue for each mile of service.

Exam. Disque: On the traffic involved.
Mr. Outlaw: On the traffic shown on Exhibit A-60.
Exam. Disque: Not all traffic.
The Witness: Yes, the relation would be 100 for the Western Trunk Lines and 129.1 for the Southwestern Lines.

By Mr. Towner:

Q. Is that revenue or mileage percentage?
A. Revenue, but reduced to a mileage basis (Tr. 5677-5678-5679).

The traffic density and rate levels of the respective territories are two of the factors to be taken into account in fixing divisions. I don't know that I could answer the question offhand as to whether or not Exhibit A-242 shows that the Southwestern Lines are receiving too much revenue, assuming that the rate levels in the Southwest are approximately 140 to 150 per cent of those in Western Trunk Line Territory ranges from about the same amount, 150 per cent of that in Southwestern Territory. I have studied this case for some time. I am not prepared to express an opinion in regard to that question. I think Exhibit A-242 has given [fol. 1268] consideration to the difference in the rate levels north and south of the gateways where we could get real comparisons of those rate levels (Tr. 5680).

The errors in the previous exhibits offered by the Western Trunk Lines to which I have referred were not very numerous. I think there were three in my exhibit.

By Exam. Disque:

If the figure of 129 were reduced to 125 would that materially reflect the revenues north of St. Louis and Kansas City?

A. That would be hard to answer, but seemingly it would not.

By Mr. Muckley:

Q. If it was increased to 135 would that have a material effect?

A. The answer I could give to that question would be that a change upward would probably be about the same as a corresponding change downward, but what it would amount to I would not attempt to say without figuring it out (Tr. 5681).

S. G. Grace was thereupon recalled as a witness and testified as follows:

Direct examination:

I desire to offer exhibit No. A-243 which consists of six pages and shows divisions east and west of Kansas City, also East St. Louis of the through class rates from Chicago to six points in Oklahoma named in exhibit No. A-181.

Here Attorney Larimore objected to the exhibit because it showed on its face that it was not rebuttal. The Examiner said that if it were not rebuttal Attorney Larimore would be given a change to rebut it (Tr. 5681-5682).

The Witness (continuing): In the first block is shown the through rates and present divisions east and west of Kansas City, and the percentage that the revenue accruing to [fol. 1269] lines east and west of Kansas City, and the percentage that the revenue accruing to lines east and west of Kansas City is of the local rates; the local rates to and from Kansas City also being shown. In the four blocks immedi-

ately following the first block, is shown percentages and revenue east and west of Kansas City based on: Short line mileage prorate; Rate prorate using as factors average of local class rates east and west of Kansas City; Rate prorate using as factors east of Kansas City average of local rates and west of Kansas City average of rates under the proposed Disque scale in Docket No. 13535; Rate prorate using as factors east of Kansas City average of rates under proposed W. T. L. scale, and west of Kansas City average of local rates; rate prorate using east of Kansas City average of rates under proposed W. T. L. scale, and west of Kansas City average of rates under proposed Disque scale in Docket No. 13535 (Tr. 5682-5683).

Following this, in the sixth block is shown the present revenue east and west of East St. Louis and the percentage that the revenue, accruing to lines east and west of East St. Louis, is of the local rates; the local rates to and from East St. Louis being also shown. In the next following block is shown percentage of revenue east and west of East St. Louis based on short line mileage prorate, also based on rate prorate using as factors average of the local rates east and west of East St. Louis. In the last block is shown the average of the present revenue east and west of East St. Louis on ten classes, and the percentage that such average revenue in cents per hundred pounds is of the average of ten classes of through rate. Under the present basis of divisions, the lines west of Kansas City are allowed their full local rates, or in excess of their full local rates to the following extent: when traffic moves west of Kansas City [fol. 1270] via lines which have allowed lines east of Kansas City 14 per cent increase. Woodward, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on three classes. Oklahoma City: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on six classes (Tr. 5683-5684).

Enid, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on three classes. Ardmore, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on one class.

Where traffic moves west of Kansas City via lines which have not allowed lines east of Kansas City 14 per cent increase. Woodward, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on six classes. Muskogee, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on seven classes. Oklahoma City: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on eight classes. Enid, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on six classes. Ardmore, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on three classes (Tr. 5684).

Lawton, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess off ull local rates on one class.

Lines east of Kansas City are allowed full local rates or in excess of full local rates on only two classes on traffic to Enid, and then, only when traffic moves west of Kansas City [fol. 1271] to those points via lines that have allowed 14 per cent inrcease east of Kansas City, and in no case are lines east of Kansas City allowed local rates or in excess of local rates when traffic moves west of Kansas City in connection with lines that have not allowed 14 per cent increase east of Kansas City. Averaging the percentage that revenue east and west of Kansas City is of the local rate on each class, it is found that west of Kansas City at four out of the six stations such average is over 100 per cent and the other two stations it is over 94 per cent, when traffic moves west of Kansas City via lines that have not allowed 14 per cent increase to lines east of Kansas City; and for the lines east of Kansas City highest average percentage is at Enid where it is 80.5 per cent and at the other five stations, average percentage for lines east of Kansas City is much lower, being as low as 59.9 per cent at Woodward (Tr. 5685).

The average of the present revenue on ten classes from Chicago to East St. Louis is 23.9 cents which represents 63.4 per cent of the average local rate on ten classes from Chicago to East St. Louis. Lines west of East St. Louis receive following average percentage of the average of local rates on ten classes: Woodward, Oklahoma, 91.6 per cent;

Muskogee, Oklahoma, 89.6 per cent; Oklahoma City, Oklahoma, 92 per cent; Enid, Oklahoma, 90.7 per cent; Ardmore, Oklahoma, 92.4 per cent; Lawton, Oklahoma, 92.5 per cent. Via Kansas City on either a mileage prorate or a rate prorate basis, the present percentages and revenue for lines east of Kansas City would be increased very substantially, in the case of Muskogee the percentages would be changed on mileage prorate basis from 34 per cent east and 66 per cent west, to 64 per cent east and 36 per cent west, approximately a reversal of the present percentages. Via East St. Louis [fol. 1272] the average revenue of 23.9 cents from Chicago to East St. Louis is on traffic to Woodward 18.6 per cent of the average ten classes of the through rate, on Muskogee it is 22.6 per cent, on Oklahoma City it is 19.4 per cent, on Enid it is 19.8 per cent, on Ardmore it is 17.3 per cent and on Lawton it is 17.2 per cent. On a mileage prorate basis these percentages from Chicago to East St. Louis would be changed (Tr. 5685-5686).

Woodward, Oklahoma, 30 per cent; Muskogee, Oklahoma, 37.8 per cent; Oklahoma City, Oklahoma, 33.8 per cent; Enid, Oklahoma, 33.7 per cent; Ardmore, Oklahoma, 30.7 per cent; Lawton, Oklahoma, 30.6 per cent. This represents a substantial increase in present percentages east of East St. Louis and on a rate prorate based on an average of ten classes the percentage east of East St. Louis would be changed to: Woodward, 24.8 per cent; Muskogee, 29.2 per cent; Oklahoma City, 25.8 per cent; Enid, 26.1 per cent; Ardmore, 23.4 per cent; Lawton, 23.2 per cent. This also represents a substantial increase in percentages for lines from Chicago to East St. Louis (Tr. 5687).

In Exhibit A-181 reference is made to a basis of divisions that shows a subdivision of the proportion east of Kansas City via East St. Louis of 50 per cent east of East St. Louis, also 47½ per cent east of East St. Louis. Using the 50 per cent factor and averaging the revenue on the ten classes and comparing such average revenue with the average of the ten class rates from Chicago to East St. Louis from East St. Louis to the Oklahoma points, the percentages that the average earnings are of the average of the local rates east and west of East St. Louis would be as follows: Woodward, Oklahoma—East 53.3 per cent, West 94.4 per cent; Enid, Oklahoma, East, 61 per cent, West 91 per cent; Okla-

[fol. 1273] homa City, East 52.5 per cent, West 94.3 per cent; Muskogee, Oklahoma, East, 40.9 per cent, West 98.3 per cent; Lawton, Oklahoma, East 45.6 per cent, West 97.2 per cent; Ardmore, Oklahoma, East 45.5 per cent, West 97.1 per cent. Using the 47.5 per cent factor, it would reduce the percentages east of East St. Louis and relatively increase the percentages west of East St. Louis.

I offer exhibit A-243 (Tr. 5687-5688).

(The statement described by the witness was thereupon received in evidence as Exhibit A-243.)

[fol. 1274] I desire to introduce exhibit No. A-244 which consists of five pages and shows divisions east and west of Kansas City, of the through rates, the through class rates from St. Louis to five points in Oklahoma named in exhibit No. A-181 (Tr. 5688).

In the first block is shown the through rates and present divisions east and west of Kansas City, and the percentage that the revenue accruing to lines east and west of Kansas City is of the local rates; the local rates to and from Kansas City also being shown. In the four blocks immediately following the first block, is shown percentages and revenue east and west of Kansas City based on: Short line mileage prorate; rate prorate using as factors average of local class rates east and west of Kansas City; rate prorate using as factors east of Kansas City average of local rates and west of Kansas City average of rates under the proposed Disque scale in Docket No. 13535; rate prorate using as factors east of Kansas City average of rates under proposed W. T. L. scale, and west of Kansas City average of local rates; rate prorate using east of Kansas City average of rates under proposed W. T. L. scale, and west of Kansas City average of rates under proposed Disque scale in Docket No. 13535.

Under the present basis of divisions, the lines west of Kansas City are allowed their full local rates, or in excess of their full local rates to the following extent (Tr. 5689):

When traffic moves west of Kansas City via lines which have allowed lines east of Kansas City 14 per cent increase: Woodward, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on two classes; Oklahoma City; Lines west of Kansas

City receive their full local rates or are allowed in excess of [fol. 1275] full local rates on one class. Where traffic moves west of Kansas City via lines which have not allowed lines east of Kansas City 14 per cent increase; Woodward, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on five classes; Muskogee, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on two classes; Oklahoma City: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on five classes; Enid, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on three classes; Ardmore, Oklahoma: Lines west of Kansas City receive their full local rates or are allowed in excess of full local rates on one class (Tr. 5689-5690).

Lines east of Kansas City, in no case are allowed local rates or in excess of local rates.

Averaging the percentages that revenue east and west of Kansas City is of the local rate on each class, it is found that west of Kansas City at two out of the five stations such average is over 100 per cent, at two stations is 98 per cent, and at one station is 93 per cent, when traffic moves west of Kansas City, via lines that have not allowed 14 per cent increase to lines east of Kansas City, and for the lines east of Kansas City highest average percentage is at Enid where it is 81 per cent and at the other four stations average percentage for lines east of Kansas City is such lower, being as low as 55.2 per cent at Woodward. Via Kansas City on either a mileage prorate or a rate prorate basis, the present percentages and revenue for lines east of Kansas City would be increased very substantially.

Taking the percentages east of Kansas City effective at the present time with the lines that have not allowed the 14 [fol. 1276] per cent increase effective July 1, 1925, a rate prorate basis would increase the percentages east of Kansas City as follows: Woodward, 60.5 per cent; Muskogee, 39.6 per cent; Oklahoma City, 32.1 per cent; Enid, 16.3 per cent; Ardmore, 14.5 per cent; as compared with a 14 per cent increase in the percentages allowed east of Kansas City effective July 1, 1925 (Tr. 5691-5692).

On a short line mileage prorate basis it would increase the percentages at: Woodward, 110.5 per cent; Muskogee, 80.4 per cent; Oklahoma City, 65.6 per cent; Enid, 45.3 per cent; Ardmore, 87.0 per cent.

I offer exhibit A-244 (Tr. 5692).

(The statement described by the witness was thereupon received in evidence as Exhibit A-244.)

I now desire to introduce Exhibit No. A-245. This exhibit shows the same information on two representative commodities from Chicago and Kenosha to Oklahoma points as shown in Exhibit No. A-243 covering the class rate adjustment from Chicago. Exhibit shows the through rate, the local rate and distance north and south of East St. Louis or Kansas City, the present division north and south of Kansas City or East St. Louis and also what the divisions would be north and south of Kansas City or East St. Louis on a short line mileage prorate and a rate prorate (Tr. 5692).

I offer Exhibit A-245 (Tr. 5692).

(The statement described by the witness was thereupon received in evidence as Exhibit A-245.)

[fol. 1277] I now desire to offer Exhibit No. A-246. Exhibit No. A-166 of Witness Sickel shows divisions and rates on cheese to Dallas, Texas. In Exhibit No. A-166 is shown a division basis stated as "Proposed Divisions" which contemplates that through rate of 155 cents from Wisconsin points to Dallas divides 45.4 cents per 100 pound- north of East St. Louis and $1.096 per 100 pound- south of East St. Louis which is arrived at by allowing lines south of East St. Louis 80 per cent of the Chicago rate of $1.37 per 100 pound- balance 45.4 north of East St. Louis. By order of the Interstate Commerce Commission in Docket No. 15880 the Chicago rate was projected north and west of Chicago and includes twelve stations in Wisconsin. The divisions stated as "Proposed Divisions" in Exhibit No. A-166 would allow the lines south of East St. Louis the same revenue out of the Chicago Rates applied from the Wisconsin points as from Chicago proper (Tr. 5693).

Divisions stated as "Proposed Divisions" in Exhibit A-166 does not contemplate any compensation to the lines

north of East St. Louis for their additional service from the Wisconsin cheese manufacturing points taking Chicago rates over and above the service from Chicago to East St. Louis. In Exhibit A-246 I have shown list of points in Wisconsin included in the Chicago group rate in Agent Leland's tariff I. C. C. No. 1799 and the short line distance from these Wisconsin points to East St. Louis. The average short line mileage from the twelve Wisconsin points to East St. Louis is 385 miles which is an average increase of 38.4 per cent over the short line mileage from Chicago to East St. Louis. In Exhibit No. A-166 it is shown that rate of $1.55 per 100 pound- applies from Milwaukee, Wisconsin to Dallas, Texas. This is not a fact because the tariff does not provide for any rate from Milwaukee, the third class rate of $1.58 applying from Milwaukee. The tariff, how-
[fol. 1278] ever, from Wisconsin shipping points in the Chicago group is subject to Rule 77 of Interstate Commerce Commission tariff Circular No. 18-A, Milwaukee being intermediate to Wisconsin points taking the Chicago rates and if a request was made for the establishment of a commodity rate from Milwaukee it could not exceed the Chicago group subject to the Chicago rate of $1.37 per 100 pound- (Tr. 5693-5694).

I now offer exhibit A-246 (Tr. 5695).

(The statement described by the witness was thereupon received in evidence as Exhibit A-246.)

[fol. 1279] I now desire to offer exhibit A-247. In Exhibit A-226 of Witness Trovillion are shown through rates and divisions via East St. Louis and Kansas City, Missouri, on cotton seed meal, carloads, from certain Oklahoma points to points in Illinois, Iowa and Wisconsin. In Exhibit A-226 are shown the percentage that the present divisions north and south of East St. Louis and north and south of Kansas City, Missouri are of the local or proportional rates. The rates shown on pages 1, 3 and 4 north of East St. Louis or Kansas City, Missouri, with the exception of the rates to Peoria, Illinois, and Milwaukee, Wisconsin, are in all cases proportional rates. In Exhibit No. A-247 have shown the local rates from East St. Louis and Kansas City, Missouri, to destinations named on pages 1, 3 and 4 of Ex-

hibit A-226; where such local rates are different than the proportional rates and have shown also in this exhibit the percentage that the division in cents per 100 pounds north of East St. Louis or Kansas City, Missouri, is of the local rates north of those gateways, which will materially reduce the percentages shown in Exhibit A-226 as representing the percentage that the divisions north of East St. Louis or Kansas City are of the local rates (Tr. 5695-5696).

Pages 2 and 3 of Exhibit No. A-247 is a copy of a letter addressed to Chairman Boyd of the Western Trunk Line by Mr. D. R. Lincoln, Assistant Freight Traffic Manager of the Missouri Pacific Railroad under date of December 15, 1921. This letter outlines the basis of divisions as set forth in Southwestern Lines Division Sheet No. 31 referred to in Exhibit No. A-226. In this letter reference is made to fourth page of an exhibit "a", but this exhibit was not available. An illustration of the method used and as detailed in that exhibit is as follows: "Exhibit No. A-226 shows that the distance from Muskogee, Oklahoma to Kansas City, Missouri is 254 miles and the lowest rate as of [fol. 1280] June 25, 1918 for the block 250 to 300 miles was 30 cents and the highest rate 20½ cents and the average of the highest and lowest rates, 20¼ cents. "Exhibit No. A-226 shows that the distance from Kansas City, Missouri to Ladora, Iowa is 309 miles and the lowest rate for the block 300 to 400 miles as of June 25, 1918 was 21½ and the highest rate 23 cents and the average of the two rates 22¼ cents. Applying a rate prorate basis using the 20¼ cents and 22¼ cents factors would produce a percentage north of Kansas City of 52 per cent, which is the basis of divisions that would apply east of Kansas City on cotton seed meal moving from Muskogee, Oklahoma to Ladora, Iowa (Tr. 5696-5697).

This basis was approved by the Western Trunk Line Committee and Agent Leland's Division Sheet No. 31 was published effective July 1, 1922 on this basis. Subseqently the Southwestern Lines found that this basis allowed lines east of Kansas City more than their proportional rates and submitted a proposition to the Western Trunk Lines to accept proportional rates as a maximum which was approved by the Western Trunk Lines and published effective

July 1, 1922 in Supplement No. 1 to Southwestern Lines Division Sheet No. 31. The actual application of the Division Sheet on traffic to points in Western Trunk Line territory would have allowed considerable greater revenue than the proportional rates as for example on traffic to Ladora, Iowa 52 per cent of the rate of 36 cents through rate would allow east of Kansas City 18.7 cents but this exceeding the proportional rate of 14 cents, east of Kansas City such proportional rate becomes the division for the lines east of Kansas City.

I now offer exhibit A-247 (Tr. 5697).

(The statement described by the witness was thereupon received in evidence as Exhibit A-247.)

[fol. 1281] The next exhibit is No. A-248 which I will introduce. Exhibit No. A-248 consists of four pages, and shows rates and divisions on fresh meats and packing house products, C. L. from Fort Worth, Texas and Oklahoma City, Oklahoma to New York, New York and Chicago, Illinois. The rates shown in this exhibit to Chicago, Illinois and New York, New York, are the same as shown in Exhibit No. A-223 of Witness Trovillion. In paragraph "A" of item No. 1 is shown through rates from Fort Worth and Oklahoma City to New York. In paragraph "B" of the same item, is shown the rates from Fort Worth and Oklahoma City to Mississippi River, also from Mississippi River to New York, and the sums of the rates in paragraph "B" of item No. 1 are equal to the through rates, indicating that the published through rates are the sum of intermediate rates applying to and from Mississippi River. In item No. 2 is shown divisions of the through rates to New York as taken from Exhibit No. A-223. In paragraph "E" of item No. 3 it is shown that the lines west of Kansas City receive the same revenue out of rate to Mississippi River as they receive out of the through rate to New York, as shown in item No. 2; divisions in the latter item having been taken from Exhibit No. — 223, and as previously stated, paragraph "B" of item No. 1, shows rates are the combination on Mississippi River (Tr. 5698).

In Exhibit No. A-223 it is shown that on packing house products from Fort Worth to Kansas City, lines west of

Kansas City receive 40 cents per 100 pounds. This is in error, however, because Southwestern Lines Division Sheet No. 40 restricts lines west of Kansas City to local rates as maximum, and as the local rate from Fort Worth to Kansas City on packing house products is 32.5 cents the correct division for lines west of Kansas City is local rate of 32.5 cents. Exhibit No. A-223 and testimony of Mr. Trovillion was to the point that lines east of Kansas City to Chicago [fol. 1282] receive more revenue out of the through rates to New York than out of the through rates to Chicago, Illinois. As has been shown, the through rates to New York are based on Mississippi River, and total proportions for lines from Kansas City to Chicago represents revenue received by lines east of Kansas City to Mississippi River out of joint rates applicable in connection with Southwestern Lines to Mississippi River, and revenue received by the lines from Mississippi River to Chicago out of joint rates from Mississippi River to New York applicable in connection with Eastern Lines. This is shown in item No. 3 under Paragraphs "E" and "F" of Exhibit No. A-248. On traffic moving to New York via Kansas City thence to East St. Louis thence to Chicago for movement via Eastern Lines to New York, the short line distance from Kansas City to East St. Louis is 278 miles and the short line distance from East St. Louis to Chicago is 279 miles (Tr. 5699-5700).

The lines east of Kansas City to Mississippi River receive 10.8 cents on fresh meats and 17.5 cents on packing house products out of rates from Fort Worth to Mississippi River as compared with 21.4 cents on fresh meats and 14.8 cents on packing house products allowed lines from Mississippi River to Chicago out of the joint through rate from Mississippi River to New York. The lines east of Kansas City to Mississippi River receive 13.2 cents on fresh meats and 12.9 cents on packing house products out of rates from Oklahoma City to Mississippi River as compared with 21.4 cents on fresh meats and 14.8 cents on packing house products allowed them from Mississippi River to Chicago out of joint through rate from Mississippi River to New York. The service from Mississippi River to Chicago is the same or less than from Kansas City to East St. Louis, yet, out of the joint through rate to Mississsippi River lines

east of Kansas City receive considerable less revenue than [fol. 1283] out of the joint through rate from Mississippi River to New York. The 13.2 cents and 12.9 cents division factors out of Oklahoma City-Mississippi River rates, includes the 14 per cent increase allowed lines east of Kansas City effective July 1, 1925, but such 14 per cent increase was not allowed east of Kansas City on traffic originating with the M. K. & T. Railway (Tr. 5700-5701).

The allowance east of Kansas City to Mississippi River on traffic originated with M. K. & T. Railway is, on fresh meats 11.6 cents per hundred pounds and 11.3 cents per hundred pounds on packing house products. On page 3 of Exhibit No. A-248 is shown revenue accruing west of Kansas City, and from Kanass City to Chicago, out of rates on fresh meats and packing house products from Fort Worth and Oklahoma City to New York and Chicago; and the percentage that such revenue is of the local rates from Fort Worth and Oklahoma City to Kanass City, and from Kansas City to Chicago. In eight instances, the lines west of Kansas City are receiving their full local rates, or in excess of their full local rates. The highest percentage that the revenue east of Kansas City is of the local rates east of Kansas is 96.1 per cent which occurs in the case of fresh meats from Oklahoma City to New York when traffic moves from Oklahoma City to Kansas City via C. R. I. & P. or A. T. & S. F. Railway. When traffic moves to Kansas City via M. K. & T. Railway percentage is 91.7 per cent (Tr. 5701).

In other instances, the lines east of Kansas City receive as low as 50.3 per cent of the local rates, and the lowest percentage that revenue west of Kansas City is of local rate, occurs in the case of fresh meats from Oklahoma City to New York, in which instance the revenue west of Kansas City is 75.4 per cent of the local rate. The lines west of Kansas City receive in one instance 147.7 per cent of local rate to Kansas City, and in all cases on traffic from Fort [fol. 1284] Worth destined to Chicago the lines west of Kansas City are receiving their full local rates, and on traffic from Oklahoma City destined to Chicago in all cases, lines west of Kanass City are receiving greatly in excess of their local rate, the revenue west of Kansas City ranging from 102.2 per cent of local rate to 147.7 per cent of

local rate. Local rates to and from Kansas City are shown on last page of Exhibit No. A-248.

I now offer exhibit A-248 (Tr. 5701-5702).

(The statement described by the witness was thereupon received in evidence as Exhibit A-248).

[fol. 1285] On Page 114 of Exhibit No. A-199 of Witness Stanage a comparison is made of the earnings received by the lines north of East St. Louis and Kansas City out of through rates to Oklahoma destinations with proportional rates applicable from Mississippi River Crossings and Cairo, Illinois on traffic originating beyond and destined to points in Western Trunk Line territory. The earnings received by the use of Western Trunk Line proportional rates from Mississippi River crossings East St. Louis and north are only a portion of the earnings received on the through traffic originating beyond. As an illustration of this, from the Mississippi River to Des Moines on page 114 of Exhibit No. A-199 a proportional scale of 48½ cents first class to 9 cents Class "E" is shown, but this scale of rates is only applicable on traffic originating east of the Illinois-Indiana State Line and the lines east of the Mississippi River are further compensated for their acceptance of this low scale of proportional rates on this traffic by the earnings that they receive from Chicago to the Mississippi River out of a rate from origin points east of the Illinois-Indiana State Line to the Mississippi River whereas out of the through rates from Western Trunk Line points to points in Oklahoma as shown on page 114 of Exhibit No. A-199 the earnings north of East St. Louis and Kansas City represent the net earnings north of East St. Louis or Kansas City, the Western Trunk Lines receiving no further compensation (Tr. 5702-5703).

To illustrate this more clearly, on a shipment from Pittsburgh, Pennsylvania to Des Moines subject to first class rate in the Official Classification and first class rate in the Western Classification the through rate would be $1.71 made up of a rate of $1.22½ from Pittsburgh, Pennsyl-
[fol. 1286] vania, to the Mississippi River and 48½ cents from the Mississippi River to Des Moines, Iowa. Out of through rate of $1.71 the lines west of Chicago and further compensation for the Western Trunk Lines east of the Mis-

sissippi River in addition to the factor of 48½ cents as referred to in Exhibit No. A-199 being 43 cents. As to the comparisons between the earnings of Western Trunk Lines east of Kansas City or St. Louis out of through rates to Oklahoma points and the earnings out of the proportional rates from Omaha and Des Moines to Cairo no consideration was apparently given to the measure of the rates, for illustration, on page 114 of Exhibit No. A-199 is shown a scale of through rates from Chicago to Oklahoma City 227.5 first class to 56.5 Class "E" and revenue Chicago to Kansas City, short line distance 452 miles, is shown as 72.8 first class to 18.1 Class "E". On the same page of Exhibit No. A-199 is shown proportional scale of class rates from Omaha to Cairo destined Southwestern territory 118.5 first class to 24.5 class "E" and the revenue from Omaha to East St. Louis, short line distance 417 miles, is shown as 81.5 first class to 15.7 class "E". From this it will be noted that the proportional class rates from Omaha to East St. Louis are considerably lower than the through rates from Chicago to Oklahoma City (Tr. 5703-5704).

E. J. Schmitt was thereupon recalled as a witness and testified as follows:

Direct examination:

The record is clear that through rates on lumber from the Southwest to Western Trunk Line territory were based, generally speaking, on full combination of rates applying to and from Thebes, Illinois. The record is also clear that the through rates or combination rates in effect prior to [fol. 1287] the rate changes via Thebes, Illinois, as made, that is, local rates north and south of that point. The divisional basis in effect prior to the rate changes applicable via East St. Louis has also been placed into the record, and it is clearly shown that from the Southwest Lumber Blanket Territory, territory south of the Arkansas River, the lines south or west of Thebes, Illinois, or East St. Louis, received full local rates (Tr. 5705).

From the territory north of the blanket, generally speaking, prior to the rate changes, the Southwest Lines also

received full local rates to Thebes or East St. Louis. Some exceptions were noted, however, to the local rate basis as the measure of the divisions to the Southwest Lines on traffic to the territory west of the Mississippi River, under the Commission's decision in I. & S. Docket No. 299. The mileages shown in Exhibit No. A-183 for the Southwest Lines is shown as 697 miles, but exhibit A-184 shows 679 miles. At Davenport, Iowa, distance percents for lines North show 15 per cent, whereas, mileage basis using 697 miles results in 25.6 per cent and if 679 miles is the proper average south the percentage is 26.2 per cent. Mileage is shown as 330 miles at Des Moines, 331 at Marshalltown and 540 at St. Paul, whereas, average short line mileage as shown in Exhibit A-77 is 343 at Des Moines, 356 at Marshalltown and 568 miles at St. Paul. In Exhibit A-184, 291 miles is shown opposite Freeport, 413 at Fond du Lac and 535 at Marshfield, whereas, Exhibit A-77 provides for mileage of 304 at Freeport, 426 at Fond du Lac and 548 at Marshfield. The distance percents due to this would be somewhat higher to the lines north at those points.

In Exhibit A-183, introduced by Mr. A. J. Lehmann, is shown the divisions received by the Southwest and Western [fol. 1288] Trunk Lines from the Southwest Blanket to Hannibal, Missouri, Davenport, Iowa, Dubuque, Iowa, Cedar Rapids, Iowa, Des Moines, Iowa, and other points west of the Mississippi River (Tr. 5706-5707).

On pages 5389 and 5390 of the transcript Witness Lehmann stated: "The first committee sheet was issued to become effective May 1, 1917, and was known as Southwestern Lines' Division Sheet No. 27 W. T. L. Division Sheet No. 520-A. So that it may be fairly said at this time that the divisions currently in effect on lumber from the southwest to destinations in Western Trunk Line territory have already been fixed by the Interstate Commerce Commission." Page No. 1 of my exhibit No. A-249 shows the divisions in cents per 100 pounds to and from East St. Louis, which Mr. Lehmann states were fixed by the Commission. This page also indicates the present rates and the present divisions via East St. Louis, and shows that the Western Trunk Lines, on traffic from the Southwest Blanket Territory to points west of the Mississippi River, are now receiving the same measure of increase in the proportions which

Mr. Lehmann states were fixed by the Commssion as has been made in the through rates under the general increases, and the reduction as of July 1, 1922 (Tr. 5707).

To points east of the Mississippi River, however, the situation is entirely different. Page No. 2 of my exhibit shows that to Chicago, for example, the lines south of Thebes, Illinois, have received from the Blanket Territory the same measure of increase in their divisions as was made in the through rate, that is, 43.6 per cent, that the line from Thebes to East St. Louis received an increase of 70 per cent but the line from East St. Louis to Chicago received only 34.1 per cent increase in its proportions. Page No. 2 will indicate, as Mr. Lehmann stated, that the [fol. 1289] lines south of Thebes, Illinois, received 16 cents, as of June 24, 1918, plus 3 cents from Thebes to East St. Louis, or a total of 19 cents, which was the full local rate to East Et. Louis, and this is illustrated by Mr. Lehmann in exhibit No. 184. There can be no question, therefore, that the correct division to East St. Louis, Illinois, on June 24, 1918, was 19 cents—the allowance to the line from Thebes to East St. Louis was 3 cents. There can be no doubt whatever, in my opinion, that the division of 19 cents south was the division from the Southwest Blanket, regardless of the fact that Mr. Lehmann, in his testimony, indicates that 20 cents should have been the measure of the Southwest Lines' proportion as of June 24, 1918, due to the desire of the Southwest Lines to prorate the Thebes-destination rate, compound their earnings and require in excess of locals (Tr. 5707-5708).

I do not understand how lines handling traffic across the river at St. Louis could consistently claim a proportion of the Thebes rates, for the reason that they do not handle the traffic via Thebes, so, under the theory advanced, the West Side Lines—M. K. T., C. R. I. & P., Frisco and Missouri Pacific, west,—would have received 19 cents and no claim to a division greater than the local to East St. Louis—19 cents—whereas, the Missouri Pacific, east, and St. L. S. W. would receive under the theory advanced by Witness Lehmann 20 cents. There is absolutely no justification, in my opinion for a division as of June 24, 1918, in excess of full local rate to East St. Louis, Illinois. Exhibit A-184 shows that the present division to Chicago from East

St. Louis, on traffic from the Southwest Blanket, is 11.4 cents per 100 pounds; that the division as of March 1, 1920, was 8.8 cents, and the June 24, 1918, division 8.5 cents. Page No. 3 of my exhibit shows the June 24, 1918, divisions East St. Louis to Chicago Group and the current [fol. 1290] divisions compared with the local rates north and south of East St. Louis as of June 24, 1918, and at present. This page shows that the through rate from Southwest Blanket, in effect to Chicago, on June 24, 1918, was 27.5 cents and on March 1, 1920, 32.5 cents,—an increase of 5 cents or 18.2 per cent. The March 1, 1920, division of 8.8 cents via East St. Louis was an increase to the lines north of East St. Louis of only 3.5 per cent versus an increase in the rate of 18.2 per cent, and an increase to the Southwest Lines of 24.7 per cent. (Tr. 5708-5709).

The current rate is 39.5 cents from the Southwest Blanket to Chicago; the June 24, 1918, rate 27.5 cents, an increase of 12 cents or 43.6 per cent. The June 24, 1918, division south was 19 cents—the local rate, and the division north 8.5 cents—one cent less than the local. The current division to Chicago of 11.4 cents, is 4.1 cents less than local of 15.5 cents, whereas, Southwest Lines' division of 28.1 cents, is only 1.4 cents less than the local rate. The local rate west of East St. Louis, of course, reflects an increase of 25 per cent, 35 per cent and a reduction of 10 per cent, whereas the local rate east to Chicago was increased 25 per cent, 40 per cent and reduced 10 per cent. On same basis of comparison, that is, 25 per cent increase under General Order 28, 35 per cent under Ex Parte 74, and 10 per cent reduction, under the existing divisions the lines north would receive, East St. Louis to Chicago, 3.1 cents less than the local rate—as compared with June 24, 1918—basis of only 1 cent less than local, and current basis for Southwest Lines of only 1.4 cents less than local to East St. Louis, Illinois. On June 24, 1918, the Southwestern Lines received full local rate and Illinois Lines received 89.5 per cent. Under the divisional basis now operative, however, the Southwest Lines are receiving 95.2 per cent of their local [fol. 1291] and the lines north only 74.3 per cent, which clearly indicates that the Northern Lines were again forced to accept revenue less than that to which they were entitled (Tr. 5710).

Page No. 3 of my exhibit also shows that on June 24, 1918, via Thebes, the Northern Lines and Southwestern Lines received their full local rates, and at present the lines north of Thebes are receiving 89 per cent of the local and Southwestern Lines 93.8 per cent of the local rates. I have previously stated, and as indicated on page No. 1 of my exhibit, that Western Trunk Lines have received from the Southwest Blanket, via East St. Louis, to points on the west of the Mississippi River, the same measure if increase as was made in the through rates. It is peculiar, indeed, that the Southwest Lines refused positively to accord to the East St. Louis-Chicago line the same treatment. If it were proper to accord to points west of the Mississippi River the same measure of increase as was made in the through rate, there is no reason at all, as I see it, why the Illinois lines, to Chicago and other Illinois points, should not have received the same treatment, and it is peculiar too, that, to Fond du Lac, Marshfield, Rhinelander, etc., the lines north of East St. Louis receive the same measure of increase as was made in the through rate, but to Illinois we had to be contented, with an increase over June 24, 1918, of only 34 per cent versus a 43.6 per cent increase in the rate.

By Mr. Muckley:

Q. Do you know if your counsel agrees with all the theories and conclusions which you are putting in the record? (Tr. 5711.)

A. I could not say.

Exhibit A-184 indicates percents based on mileage. The mileages shown are improper, as stated, as an average is used south and short single line mileages are used [fol. 1292] north, but even so, allowing the S. W. L. their full locals via East St. Louis to the destinations shown as of June 24, 1918, leaves a balance to the Northern lines greater than a mileage prorate percentage, as follows:

	Per cent of through rate north as of June 24, 1918, allowing full local south	Mileage basis as indicated by Witness Lehmann
Chicago	30.8 per cent	29.1 per cent
Freeport	30.8 per cent	39 per cent
Peoria	28.3 per cent	18.8 per cent
Springfield	28.3 per cent	12.2 per cent
Fond du Lac	44 per cent	37.8 per cent
Marshfield	44 per cent	44.1 per cent
Rhinelander	49 per cent	46.1 per cent

Page 4 of my exhibit shows the per cents accruing to the lines north of East St. Louis on basis prescribed by the Commission to points west of the River, versus mileage basis of per cents as shown in Exhibit A-183. And this page also shows that on basis of allowing lines south full local rate to East St. Louis as of June 24, 1918, instead of basis prescribed by the Commission, the lines north of East St. Louis receive in excess of revenue based on mileage (Tr. 5712).

To further indicate the result of the 1924 agreement, about which I testified in the former hearing at Chicago, I respectfully direct attention to pages Nos. 5, 6 and 7. Page No. 5 shows that the lines north and south of Thebes received the same measure of increase from the Blanket Territory as was made in the through rates to Chicago, but that from the territory north of the Blanket the lines north have not received the same measure of increase as was made in the rate. For illustration, from the 13 cent territory—territory north of the Arkansas River—the through rate [fol. 1293] has been increased 46.9 per cent, but lines north received an increase of only 43.5 per cent. Block "B" shows that the lines south have received an increase of 50 per cent although through rate was increased only 46.9 per cent. Page No. 6 shows the situation via East St. Louis. From the 13 cent territory the lines to Chicago are receiving an increase over June 24, 1918, of only 35.3 per cent versus an increase in the rates of 46.9 per cent, and from other points in lower rated groups the Southwest Lines are receiving full local rates which reflect 35 per cent under General Order 28, 35 per cent under Ex Parte 74, and the 10 per

cent reduction, regardless of the fact that the through rates were increaesd only 18 per cent under General Order 28 (Tr. 5713).

This situation is existent from all points north of the Blanket Territory. Lines to Chicago, as representative, have received an increase of only 2.9 cents from the entire Southwest out of rate increases ranging from 10 to 12 cents per 100 pounds. This amount of increase does not pay the increased switching absorptions at Chicago and East St. Louis. Page No. 7 shows that the same situation prevails at points other than Chicago. Where rates have been increased 51 per cent at Peoria, the increase from this lower rated territory to the lines north of East St. Louis is only 46 per cent. At Springfield rate increase from Jonesboro was 51 per cent, increase north 40 per cent, etc. Page 8 shows local rates on lumber to Thebes and East St. Louis, Illinois, from origin groups in the Southwest and the current local rates from Thebes and East St. Louis to destinations shown in Exhibit- A-183 and A-184. Pages Nos. 9 and 9-A of my exhibit No. A-249 show a comparison of the present divisional situation on lumber from the Southwest. From Cape Girardeau, Missouri, to Chicago, for illustra- [fol. 1294] tion, lines north of East St. Louis, Illinois receive 54.3 per cent of the rate and perform 67.4 per cent of the haul. Southwest lines receive 45.7 per cent of the rate and perform 32.6 per cent of the service. Southwest Lines receive 80 per cent of the local rate; Northern Lines 73.5 per cent. At Kennett, Missouri, Southwest Lines receive 59.7 per cent of the revenue and perform 44.3 per cent of the haul, and receive full local rate whereas lines north receive 80.6 per cent of the local (Tr. 5713-5714-5715).

At Paragould, Arkansas, lines south receive full local; lines north 77 per cent of local, and at Batesville lines south receive full local, lines north, to Chicago, 73.5 per cent of local. From McNeil, Arkansas and the Southwest Blanket, to Chicago, lines south receive 95.2 per cent of the local rate to East St. Louis, lines north 73.5 per cent.

Attorney Larimore here objected to this character of testimony, but no ruling was made by the Examiner.

This page of the exhibit shows clearly in my opinion that the lines north are not receiving proper revenue. Page No.

10 of my exhibit contains an illustration of sincere generosity, and is, as I understood Witness Sickel to state, a scientific manner in which to arrive at divisions. Mr. Sickel suggested a percentage basis on Arkansas and Louisiana traffic. He suggested 21.5 per cent north of East St. Louis, for illustration, on Little Rock and 23.6 per cent on Louisiana, and that such percentages be made applicable on all traffic. On lumber his proposal is that lines from East St. Louis to Chicago receive 21.5 per cent or 7.7 cents per 100 pounds, or 49.7 per cent of the local rate (Tr. 5715).

For Southwestern Lines' service he suggests 110 per cent of the local rate. On a 50,000 pound car this would pay the lines north of East St. Louis $38.50 per car, resulting, on a [fol. 1295] car to Chicago—less switching—is the lines north receiving $15.25 for hauling a car of lumber 279 miles—Southwest Lines receiving $155.65 for a haul of 351 miles. This is merely an illustration of the suggestions made to the Illinois lines regularly, indicating, without question, in my opinion the liberality of the Southwest Lines. He suggests revenue to the Southwest Lines be based on allowing them four times as much as Illinois lines receive—this for a haul 72 miles in excess of the haul of the Illinois lines. On Louisiana lumber Mr. Sickel generously suggested 23.6 per cent, or $23.25 per car net East St. Louis to Chicago, versus $151.00 south, or revenue about six times greater for a haul of only 200 miles more than the haul from East St. Louis to Chicago. It is suggested that lines north of East St. Louis receive 60 per cent of the local rate to Chicago—Southwest lines receiving under the proposed basis 109 per cent of the local rate to East St. Louis. This page clearly indicates that no consideration whatever should be given to the suggested basis for divisions on Arkansas and Louisiana (Tr. 5716).

Here followed a discussion as to the propriety of this testimony. During the course of the discussion Attorney Towner said that he was willing to be bound by these conclusions of the witness (Tr. 5716-5717).

The Witness: In exhibit 183 the mileage shown for the Southwest Lines from the Southwest Blanket is 679 miles. Page No. 11 of my exhibit shows weighted haul on lumber from the Southwest Blanket—Arkansas eliminated—and on

the same exhibit are figures showing average haul with Arkansas included. These figures were taken from Exhibits A-116 to 122, inclusive. The exhibit will indicate a weighted haul from the Southwest Blanket, including Arkansas, of 526.2 miles and, excluding Arkansas, 649 miles. All of [fol. 1296] Arkansas should not be included in the Blanket Territory, but the weighted average mileage from the whole territory would be less than 648.9 miles, if traffic from that part of Arkansas in the Blankets was included (Tr. 5717).

Page No. 12 of my exhibit is based upon Exhibit A-116 of Witness Bone. This exhibit showed there moved from Missouri points to Illinois a total of 260 cars of lumber and that 76 cars were destined to points taking a division of 11.4 cents per 100 pounds from East St. Louis, which includes Chicago; 38 cars destined points taking a division of 12.5 cents; 14 cars to Peoria and Peoria rate ›t divisional group; and 84 cars to miscellaneous desti.. ›s. On the cars destined Chicago and Chicago divisional group points, the average haul of the Western Trunk Lines was 316 miles; average haul of Southwest Lines 169 miles.

This exhibit will indicate that Western Trunk Lines' revenue averaged $63.00 per car for haul of 316 miles, and Southwest Lines' revenue per car averaged $84.00 for haul of 169 miles.

Attorney Towner here stated that another exhibit would show that the absorption of switching was the average.

The Witness (continuing): So far as our line is concerned and 90 per cent on the C. & E. I. is the point at which we have to make these absorptions. I cannot say whether there is any competition involved (Tr. 5718).

I don't believe that our absorption was occasioned by competition with the Burlington at Chicago. The Burlington is a very circuitous route. There are many lumber interests on the Burlington but the fact remains that this traffic is routed our way and moves our way and I cannot see whether it would be any element of competition at all. I would not say that the absorptions at Chicago are not occasioned by any competitive conditions. These are the facts, [fol. 1297] these are the actual absorptions. I could not say whether the situation at Chicago is the result of a condition

90 per cent competitive. The switching absorptions at Chicago are reciprocal among all lines.

If the Chicago switching absorption expense is taken into consideration, and that, in my opinion, cannot be overlooked, which will average about $17.00 per car, and the switching charge of $4.95 per car at East St. Louis, the average per car revenue north of East St. Louis is $41.00 per car for a haul of 316 miles, versus $84.00 per car south for a haul of 169 miles (Tr. 5719).

The other figures, all of which were taken from Exhibit A-116, show a similar situation. A study of that exhibit will indicate that where Western Trunk Lines' haul exceeds that of the Southwest Lines, the revenue per ton mile is materially less than that of Southwest Lines, but where the Southwest Lines' haul is greater than that of the Western Trunk Lines, their revenue is also materially greater, as is shown in the same exhibit from Arkansas to Illinois, and this, in my opinion, indicates clearly that the present divisions are unfair to the Western Trunk Lines. On the 361 cars to Chicago and group points, from Arkansas, the average revenue per car for 306 mile haul was $60.00 per car; Southwest Lines' revenue for 415 mile haul averaged $131.00 per car. Taking into consideration the switching charge at Chicago and East St. Louis, the revenue north of East St. Louis is reduced $21.95 per car, to $38.72 per car, East St. Louis to Chicago versus $131.00 per car averaged for Southwest Lines for 415 mile haul. Surely some consideration must be given to the line having the short haul, included in which are heavy absorptions (Tr. 5720).

Page No. 13 is interesting, in my opinion. The origin [fol. 1298] points were picked at random from items appearing in exhibits filed by Witness Balch. In practically each instance, from Missouri, via East St. Louis, it will be noted that present revenue to the lines west is equal to full local rate to East St. Louis, whereas the revenue to the lines East, under existing divisions, will average about $22.00 per car less than local rate and $17.00 per car less than local had local rate from East St. Louis to Chicago been increased to the same extent that Southwest Lines' rate had been increased under Ex Parte 74, that is, 35 per cent. Via Thebes, from Missouri, in each instance—with one exception—Southwest Lines are receiving full local

rates, whereas Western Trunk Lines' revenue is materially less than the local rate. Via East St. Louis, from Arkansas, Page 13 shows that lines west are receiving full local rate from points as far distance as 298 miles from East St. Louis, and less than locals from points in the Blanket territory, but not nearly as much less as the East St. Louis-Chicago lines accept less than their local. Via Thebes, from Arkansas, in four out of six representative illustrations, lines south of Thebes receive full locals, whereas in no instances do the lines north receive their local when on June 24, 1918 lines north received our full local rate (Tr. 5720-5721).

As to Texas: Average revenue per car to Southwest Lines, under present arrangement, is $151.42 or $7.55 per car less than full local rate. On June 24, 1918, Southwest Lines received full local and Eastern Lines 1 cent less. We now receive 4.1 cents less than local rate or 3.1 cents less if our local had been increased the same measure, that is, 35 per cent instead of 40 per cent under Ex Parte 74. Practically the same situation exists at Louisiana points and this page, in my opinion, indicates clearly how unfair the divisions are to the East St. Louis-Chicago Lines. The [fol. 1299] average revenue from Missouri, via East St. Louis, to Chicago, based on present divisions, is: Lines west $89.83 per car, lines east $66.56. Deducting switching of approximately $21.00 per car results in about $45.00 for service of 280 miles and, in my opinion, as I have stated before, the lumber divisions are not at all on a fair basis to the W. T. L. or Illinois Lines.

In my opinion, divisions must be based on the origin and destination of the traffic. Divisions to Trunk Line Territory are so based, and there is no reason why divisions to Illinois, C. F. A. and W. T. L. territories should not be based accordingly. There must be taken into consideration the fact that when rates are based on full local rates to and from the base points and the traffic moves through the base point, the measure of the division via the base point should have been the local rate used in constructing the through rate (Tr. 5721-5722).

If the through rates are increased—the local rate either west or east losing its identity by such increases in the

through rate—the only fair basis is to determine percentage based on the local rate factors from each origin to each destination point and apply such per cents to the through rate. This basis will insure to each set of lines a proper and fair basis for distribution of revenue as the rates change. The combination feature is never lost sight of and each set of lines receives revenue based on the local rates, which combination of rates prior to the rate changes made the through charge paid by the shipper. I believe that, in the case of lumber, where the local rates east and west of the base point used in constructing the through rate have been found reasonable per se by the Interstate Commerce Commission, such factors should be used as a basis for divisions of the through rate.

As to traffic moving through a base point and handled [fol. 1300] from the base point by the same line and interchange made at a point beyond the base point: It is, I think, unfair for the line handling such traffic to a connection at an interchange point beyond the base point to receive its full local rate to the base point, plus the same revenue that would accrue from the base point proper for service to the interchange point. That basis results in compounding of earnings, and, as stated, is not fair (Tr. 5722-5723).

In the case of lumber, lines handling through traffic through Thebes, the base point, and East St. Louis, the interchange point, should not have received, on June 24, 1918, in my opinion, 16 cents to Thebes and 19 cents—the full local rate—to East St. Louis. They should have been contented with the full local to the base point, Thebes, plus a reasonable division beyond the base point, the reasonable division being determined on facts. By that I mean, as 16 cents to Thebes was the local rate and 19 cents the local to East St. Louis. The Southwest Lines performed service—Thebes to East St. Louis proper—for three cents per 100 pounds—the difference in the rate—and out of that 3 cents, literally speaking, they absorbed, on traffic to East St. Louis proper or to St. Louis, Missouri, certain terminal charges. On through traffic no such absorptions are made, and the point I would like to make is that the measure of the division from Thebes to East St. Louis should have been based accordingly. The full local rate south of East

St. Louis should not have been the measure of the revenue south of the interchange point. Too, in my opinion, should be taken into consideration compensation features as to revenue for the line performing the short haul, included in which are heavy absorptions, and, in the case of Southwestern traffic which does not cross the river at East St. Louis—in addition to the absorption at Chicago—is the [fol. 1301] fact that we pay the intermediate switching charge on traffic delivered to us at East St. Louis, different from the situation at other points where the delivering line pays such charges (Tr. 5723-5724).

I now offer Exhibit A-249.

(The statement described by the witness was thereupon received in evidence as Exhibit A-249.)

[fol. 1302] Cross-examination:

I do not say that on lumber, for example, to Chicago through the Thebes gateway, that the Southwestern Lines should get the St. Louis revenue. I said in my opinion that the factor to East St. Louis should not have been the full local rate to Thebes plus three cents division which resulted in the full local up to East St. Louis. I said on traffic going through Thebes to East St. Louis in my opinion the 19 cents should not have been the measure of the division south of East St. Louis. 16 cents to Thebes was the local rate and 19 cents the local to East St. Louis. The Southwestern Lines, as I have stated, performed its service Thebes to East St. Louis proper for 3 cents per 100 pounds, the difference in the rate and out of that 3 cents they absorb on traffic to East St. Louis proper or to St. Louis, Missouri certain terminal charges (Tr. 5725-5726).

As I have stated on through traffic such absorptions are not made and it is my contention that the measure of the division from Thebes to East St. Louis should have been based accordingly and the full local south of East St. Louis should not have been the measure of the revenue south of the interchange point. I don't think the situtaion as to traffic from Chicago delivered to the Southwestern Lines at Thebes is similar at all.

Referring to the top of page 12, the first line on Exhibit A-249, where the revenue per ton mile in mills in the last two columns on the top of the page shows Southwestern Lines 18.45 and Western Trunk Lines 7.40, I don't believe that situation has been brought about almost entirely by the percentage increases in the two locals. I think it was brought about by the fact that we have not received a proper division north of East St. Louis. I presume the western proportion greater than the east, the local short [fol. 1303] hauls. It is possible that the fact that the increase was applied to each local to meet the situation may have some bearing, but I don't believe it would affect the general situation. Possibly that would result in greater earnings per ton per mile west than east. I could not say without any figures to prove it (Tr. 5726-5727).

Continuing direct examination:

I now desire to offer my exhibit No. A-250. Witness Stanage, on page 5442 of the transcript, stated:

"The present divisions are not the result of arbitrary carrier action. They are the result of the processes of natural growth. A great many influences brought about the present bases." There is nothing in his testimony, nor in the record, to enable one to determine what influences brought about the present bases for divisions. Whatever may have been the reasons for the establishment of the present divisions, the fact remains, in my opinion, that the divisions north of Thebes, or East St. Louis, or Kansas City, on Missouri traffic, do not reflect proper or sufficient revenue to the lines operating north of those gateways. Witness Stanage also stated: "It is not proper to divide existing joint rates on mileage prorates for a great many reasons, principal among which is the fact that the rates in the Southwest are on a substantially higher level than those in Western Trunk Line territory. Divisions are generally based on the respective rate levels the territories" (Tr. 5727-5728).

I will refer later to certain pages of my exhibit which will clearly indicate that the present divisions accord the lines north of the gateways with Southwest Lines materially less than mileage or a rate prorate,—the latter, gen-

erally speaking, reflecting the *the* different level of rates in the different territories. My experience in attend-[fol. 1304] ing divisional conferences in connection with lines handling inter-territorial traffic has indicated to me that the principal idea of the lines having the whip hand, by that I mean the strong lines, is to force through whatever basis, from a revenue standpoint, appeals to them,—whether or not that basis is fair to their connections. Due, in the past, to lack of unison on the part of the Illinois lines—and possibly the Western Trunk Lines—the Southwestern Lines, standing together at all times regardless of the merit of the suggested divisions, have been able, in my opinion, to always secure that which they wanted,—in excess of that to which they were really entitled—and always at the expense of the Northern Lines. I am not talking about lumber. This is Exhibit A-215. I am testifying as to Exhibit A-250. The statement could be taken as applying to lumber if you want it (Tr. 5728-5729).

Witness Stanage stated that the through rates were not based on mileage and that a mileage prorate has never been observed in basing any of these divisions, and, further, that the through rates were constructed by taking into consideration the proportions to be allowed the Southwestern Lines. If the latter be a fact, as will be indicated later, in my testimony, the lines north must not have given any thought whatsoever to their revenue, and again this is explained, as I see it, by the Southwestern Lines playing one line against the other,—the result, in the end, being that the revenue north, on practically all classes of traffic, to and from this particular territory, is far too low. Witness Stanage explained the rate construction at Southeast Missouri points, indicating that the through rates were constructed on combination, using proportional rates to Thebes and local rates south of Thebes, Illinois. In my opinion, when, through commercial conditions, it becomes [fol. 1305] necessary to establish inter-territorial rates on less than full combination of local rates, special consideration must be given to the division of the rates so established, and an equitable basis for divisions placed into effect for each set of lines. It does not seem at all fair, nor proper, as I see it, for the Southwest Lines to be allowed practically their full local rates and the Western

Trunk Lines the difference between such local rates and through rates (Tr. 5729-5730).

Mt. Stanage, as stated, indicated that the through rates were based on full locals south and proportional rates north. The proportional rates used in constructing the through rates are no longer in effect but, regardless of that, in my opinion consideration should be given to the measure of such proportional rates, the necessity therefor, and other things pertinent thereto. I have endeavored to trace back into the records to determine the necessity for the establishment of such rates but have not been able to do so. I was able to develop, however, that these so-called proportional rates were formerly called arbitraries. In Chicago-St. Louis Traffic Association Division Sheet No. 97, the following appears:

"Arbitraries applying on traffic to and from points in Missouri south of St. Louis, Missouri, on the St. Louis, Iron Mountain & Southern, St. Louis, Southwestern and St. Louis-San Francisco Railway." That sheet was in effect in 1924 and provided for a scale of arbitraries, Chicago over East St. Louis, as follows:

1	2	3	4	5	A	B	C	D	E	
—	—	—	—	—	—	—	—	—	—	(Tr. 5730)
40	30	20	15	10	14	12	11	9	8	

I could locate no through rates in effect at that time and whether or not those arbitraries applied as rates to East St. Louis is difficult to state, but it is apparent such was the case, for the reason the arbitraries referred to re-[fol. 1306] mained in effect until 1898, when in Supplement No. 4 to Chicago-St. Louis Traffic Association Division Sheet No. 99, the following appeared: "On traffic to and from points in Missouri, south of East St. Lous, on the St. L. Iron Mountain and Southern, St. Louis Southwestern or St. Louis-San Francisco Railway, local rates will apply east and west of the Mississippi River." This, in my opinion, indicates that the arbitraries referred to, to East St. Louis, applied as rates prior to 1896 and, effective in 1896 they were applied as local rates to and from East St. Louis constructing the through charge. Circular No. 10, issued in 1893 by the Chairman of the Chicago-St. Louis

Traffic Association, announced that to Arkansas the lines north of East St. Louis would receive Texas arbitraries in effect in 1888, and in 1896 Division Sheet No. 105 was issued, applying specifically on Arkansas traffic, and provided for arbitraries of:

1	2	3	4	5	A	B	C	D	E
35	31	25	17	13	14	13	12	10	9

these arbitraries being the Texas divisions which were still in effect in 1900 (Tr. 5730-5731).

I mention this at this time to indicate that a 35 cent scale—applicable on Texas traffic—was made to apply on Arkansas traffic. Whether or not any through rates were in effect, as previously stated, to or from Southwest Missouri at that time could not be developed, but it seems clear from the records that these arbitraries—Texas divisions—whilst published in Division Sheets—were no doubt basing arbitraries to be used in determining through rates to and from Chicago, Illinois. Effective July 15, 1909, this 35 cent scale—while I have stated was the Texas division as of 1888—was published in Western Trunk Line I. C. C. No. 17, applicable on traffic to Arkansas and Missouri when [fol. 1307] no through rates were in effect. In view of the fact that this 35 cent scale as of 1888 applied on Texas traffic and was later made applicable to Arkansas traffic, and still later on Missouri, leads me to the conclusion that the present so-called proportional rates on Missouri traffic can be considered no differently than the so-called arbitraries or differentials Chicago over St. Louis as published in all tariffs naming rates between Chicago and Arkansas, Texas, etc., and should not be considered the measure of the allowance to the lines north of Thebes or East St. Louis, Illinois (Tr. 5731-5732).

Various witnesses for the Southwest Lines have stated that the differentials Chicago over St. Louis, on Arkansas, Louisiana, and Texas traffic should not be considered the measure of the divisions to the Northern Lines. If on Texas, Louisiana, and Arkansas the differentials are admitted to be too low for divisional application, the same situation should be applicable to Missouri. Page No. 1 of my exhibit No. A-250 shows a comparison of these so-called

proportional rates with the local rates currently in effect. The fact that these proportional rates are so materially less than the local rates proves conclusively in my opinion, that they are not proportional rates literally but merely arbitraries, as stated, used in the construction of through rates to Missouri. I have referred to numerous tariffs having proportional rates but in no case could I locate such great differences as between local and proportional rates as exist on Arkansas and Missouri traffic from Chicago, and again state, in my opinion, that these rates cannot be considered in any other light than arbitraries used in constructing through rate. In I. & S. Docket No. 2247 the Interstate Commerce Commission prescribed a scale of class rates for application in Missouri, and in my opinion I find the follow- [fol. 1308] ing: "Recognized bridge arbitraries at Mississippi River crossings may be added wherever and to the extent they now apply, and the rates to and from defined territories should be based on the present differentials over the river crossing," and the respondents in that case, I. & S. Docket No. 2247—100 I. C. C. 277, proposed that rates from defined territories such as Chicago, etc., be constructed on combination of the present differentials over the proposed scale from St. Louis, Missouri (Tr. 5732-5733-5734).

This, of course, indicates also that these so-called proportional rates were also considered differentials by the Commission and by the Southwest Lines. Considering same as such, therefore, it is improper to base the revenue of the lines north of those arbitraries. I think the measure of the through rate, the service performed, etc., by each set of carriers should be taken into consideration in arriving at the proper divisions via East St. Louis and Thebes, to and from points in Southeast Missouri. The Illinois Lines, generally speaking, in the past have never been consulted as to the rates to be published from Chicago. Even under the revised 9702 scale the Southwest Lines published whatever rates they saw fit from Chicago, and this statement is substantiated by the basis used by the Southwest Lines in constructing rates to Cuba, Missouri, Willow Springs, etc., as appearing on Page 97 of Witness Stanage's Exhibit No. 199. For years lines north have been dissatisfied with the revenue received on traffic to or from points in Missouri, between St. Louis and Kansas City, Missouri.

We believe for years, as we do not, that the measure of the rate, service, etc., east and west should be the governing factor in arriving at divisions—yet the Southwest Lines published rates on the 9702 scale, from St. Louis or Thebes, plus these unsatisfactory divisions, and have arbitrarily [fol. 1309] allowed us such proportions without our concurrence. For that particular reason I again state that where rates are based on less than full combination of locals, special consideration must be accorded the divisions of such rates (Tr. 5734-5735).

On pages 29 to 41, etc., of his exhibit Mr. Stanage indicates in detail the manner in which the rates to Southeast Missouri points were constructed—full locals south of Thebes, plus the arbitraries as the factors north. It is also indicated in this exhibit that the lines north of East St. Louis receive 65 per cent of the Thebes basing rate. The Frisco was not a party to the tariff naming these arbitraries to or from Thebes, yet it has exacted, as the exhibit indicates, 35 per cent of a rate in which they do not participate, nor do they handle traffic through the base point, when via St. Louis, and this is true to all Southwest Lines which do not reach Thebes. In my opinion, it is not fair to base divisions on a theoretical base point or in any manner which results in compounding of earnings. These figures, 65 per cent of the Thebes proportions, compared with the locals and so-called proportional rates are also shown on page No. 1 of my exhibit (Tr. 5735).

The effect of prorating the Thebes proportions via East St. Louis is clearly shown on page 2 of my exhibit. This will indicate that the through rate, using Poplar Bluff as representative, has been increased 70.6 per cent, the proportion from Chicago to East St. Louis increased 51.3 per cent, from East St. Louis to Thebes 67.3 per cent, and from Thebes to Poplar Bluff 88.4 per cent. It indicates, due to the basis used, the Southwest Lines compound their earnings at the expense of the Chicago-East St. Louis lines. It also indicates than in 1917, Chicago to Campbell, Mis- [fol. 1310] souri, as representative lines north received 28 per cent of through rate. Regardless of the rate increases, they are now receiving only 26.7 per cent. I will have something more to say later about prorating the Thebes proportions via East St. Louis.

Page No. 3 of this exhibit indicates clearly that the present divisions are unfair to the lines north of East St. Louis. Particular attention is directed to the ton mile earnings. These Missouri points shown are representative of the entire situation in Southeast Missouri. I imagine I am speaking for the Western Trunk Lines now, particularly so far as the Thebes-East St. Louis situation. I have no reason to announce any principle (Tr. 5735-5736).

Page 4 of my exhibit shows the same information via Thebes, Illinois. This page of the exhibit also indicates the per ton mile revenue to the lines north compared with that of the lines south, on average of ten classes. In Docket 11825—66 I. C. C. 359, the following appears: "The division of 94.5 cents per ton yields to the Eastern Illinois 1.11 cents per ton mile as contracted with the Frisco ton mile earnings of 6.45 cents of Sikeston, 2.39 cents to Kennett, 1.73 cents to Turrell and 2.2 cents to Osceola. The record discloses no unusual conditions over the Frisco portion of the through haul which justify so great a disparity." If the Commission, in Docket 11825, condemned the disparity then existing, which ranged from 1.73 cents south to 6.45 cents, versus 1.11 cents north, it is a certainty a division per ton mile which yields to Southwest Lines ten times greater revenue than Northern Lines receive is unfair. Pages Nos. 3 and 4, via East St. Louis and Thebes, indicate without question the unfairness to the Northern Lines of the present division (Tr. 5736-5737).

Pages Nos. 5 and 6 also clearly indicate the unfairness [fol. 1311] to the Western Trunk Lines, in my opinion, of the present divisions of commodity rates on canned goods and other commodities as taken from Witness Stanage's Exhibit. The Missouri points shown are representative and the local rates shown are those which would move the traffic if no joint through rates were in effect. Where any line performs—as in the case of canned goods, which is representative of all of the commodity situations to Southeast Missouri—only 38 per cent of the haul and receives 61 per cent of the revenue, there is something wrong with the divisions. There is no agreed basis for divisions to Southeast Missouri and Southwest Lines are exacting local rates, resulting in a severe penalty being placed upon the lines north of the river crossings. On Page No. 97 of Witness

Stanage's Exhibit 199 the basis for rate construction to such points as Cuba, Missouri, Willow Springs, Missouri, is shown. It is indicated that the rates were constructed on a 54 cent scale over the rates from St. Louis. I referred to this previously and stated that the Southwest lines published rates based on full locals west of East St. Louis plus a divisional factor without the concurrence of Illinois lines. I was not speaking about proportional rates. I was speaking of divisions. Agent Boyd publishes them (Tr. 5737-5738).

The divisions are published for account of all lines; I presume for account of the Western Trunk Lines. I imagine they were published before any through rates were published. I presume that when the through rates came in the Western Trunk Lines added locals to the proportional rates to make the through rates. I stated that I tried to find why this scale was placed in effect. The records do not indicate that. It might be possible that the Southwestern Lines requested Agent Boyd to publish that scale, [fol. 1312] but I could not say. The proportional rate which we put in before the through rates were published is low enough to be an arbitrary. I did not have anything to do with putting it in (Tr. 5739).

Page No. 7 of my exhibit has been prepared showing the net revenue to the lines west of St. Louis, Missouri. In other words, I have prepared the figures by deducting the St. Louis bridge toll, which is paid by the Western Lines, and in all cases the figures shown represent the revenue to the Western Lines west of St. Louis, Missouri. The Missouri points shown are representative and the local rates are those which would apply if there were no through rates. Page No. 8 of my exhibit shows divisions of present rates on miscellaneous commodities north and southbound on Missouri traffic. This exhibit indicates clearly, in my opinion, the unfairness of the present divisions to the Western Trunk Lines. The commodities and the Missouri points shown are representative of the entire situation at points in Missouri west of St. Louis, Missouri. Whilst I can appreciate that the Western Lines might claim that they are entitled to not in excess of the local rates west of St. Louis as maximum, the fact remains that, in actual settlement, the figures which I have shown on this page are being applied.

On page No. 98 of Witness Stanage's exhibit No. 199 is shown revenue to the lines from Chicago to East St. Louis on traffic from New York, Philadelphia, Buffalo, Minneapolis, St. Paul, etc., compared with the allowances to the Chicago-East St. Louis lines on Arkansas-Missouri traffic. Generally speaking, the allowances Chicago to East St. Louis, on New York, St. Paul, Buffalo, etc., reflect an actual mileage prorate, so the comparison made is not at all pertinent (Tr. 5739-5740).

On page No. 99 Mr. Stanage indicates revenue to the lines west on traffic from Peru, Indiana, to Springfield, Joplin and Neosho, Missouri to indicate that on traffic from Peru, Indiana, the proportions west are materially in excess of the divisions received on Chicago traffic. Page No. 9 of my exhibit shows that the rates from Peru, Indiana are made on full combination of local rates, and so divide, and also that the lines from Peru, Indiana—a point 286 miles from East St. Louis—are receiving 80.5 cents on first class versus 54 cents from Chicago—a point 279 miles from East St. Louis. Neither comparison, in my opinion, has any bearing on this case. On pages Nos. 100 to 111 of Witness Stanage's exhibit various illustrations are provided showing revenue to Southwest Lines from Chicago and Central Freight Association territory to Oklahoma. The rates from Central Freight Association territory were constructed originally—prior to the five per cent case—differentially over the rates from St. Louis. Taking Dayton-South Bend territory as illustrative—the rates were based on the Texas differentials over St. Louis of—

[fol. 1313]

1	2	3	4	5
32	37	20	16	11

and in the division of those rates the lines east of East St. Louis received full local rates. If on traffic from C. F. A. territory—the rates having been based on differentials over St. Louis—the Southwest Lines accorded full locals east, it is singular, indeed, in my opinion, that on traffic from Chicago the same basis did not prevail (Tr. 5740-5741-5742).

On page No. 112 of Witness Stanage's Exhibit is an illustration of divisions via Kansas City. Page No. 10 of my exhibit indicates that under the present basis for divisions the lines west of Kansas City, to Carthage and

Joplin, Missouri, receive 41 per cent for performing 25 per cent of the service. To Springfield, Missouri, the lines west receive 44 per cent of the revenue and perform 30 per-
[fol. 1314] sentative and the local rates shown are those which would apply if there were no through rates. I have endeavored to point out in this exhibit that the divisions north of the gateways with Southwest Lines, on Missouri traffic, are, in my opinion, on an improper basis. On page No. 159 of Witness Stanage's Exhibit is found a statement showing divisions on strawberries via East St. Louis and Kansas City. Page No. 11 of my exhibit is an elaboration upon Page No. 159. I have used the same points of origin as used by Mr. Stanage and have used Chicago as the destination, as almost all of the fruits and vegetables from the Southwest go to Chicago. The local rates shown are those which would move the traffic if no through rates were in effect (Tr. 5742).

As to peaches, as per Witness Stanage's Exhibit No. 199 page 167: Page No. 12 of my exhibit No. A-250 clearly indicates that the present divisional basis is unfair to the Western Trunk Lines. The present basis for divisions via East St. Louis yields Illinois Lines 19 mills per ton mile, Southwest Lines, west of St. Louis, Missouri, 35.2 mills, at group 1 stations, 29.5 mills at group 2, etc. Southwest Lines receive from 76 per cent to 82 per cent of the local rate, whereas Illinois Lines receive 50 per cent of their local. Via Kansas City, for 214 miles, 265 and 380 miles, respectively, the lines west receive 44 cents versus 34 cents for 452 miles and at points 304, 317, and 378 miles, respectively west of Kansas City, Southwest Lines receive 49.5 cents and 56 cents versus 34 cents for Western Trunk Lines' haul of 452 miles. Ton mile earnings via Kansas City yield Southwest Lines from 20.6 mills to 41.1 mills, whereas Western Trunk Lines' earnings are only 15 mills per ton mile. The local rates shown are those which would move the traffic if no through rates were in effect. On ap-
[fol. 1315] ples, as indicated on Page No. 13 of my exhibit, Southwest Lines perform service of 35.7 per cent to 43.8 per cent, via Kansas City, of the haul but receive revenue of 59 to 61.7 per cent. Here again the local rates shown are those which would move the traffic if no through rates were in effect (Tr. 5742-5743).

Page No. 14 of my exhibit is an elaboration upon the situation provided for on page Nos. 177 and 178 of Witness Stanage's Exhibit No. 199, showing a mileage comparison together with percent present division is of local rate. A study of these pages will also indicate clearly that the divisions accruing to the Western Trunk Lines are entirely too low.

We offer our Exhibit A-250 (Tr. 5743-5744).

Attorney Muckley here objected to the introduction of the statement referred to as Exhibit A-250 for the reason that there was an understanding at the Galveston hearing that any exhibit to be offered at the present hearing would be sent to the Southwestern Lines prior to the present hearing. Attorney Towner replied that this agreement would have been complied with, but that the last exhibit had been finished about noon today or had not been finished yet, and that he would agree that ten days should be allowed to look the Exhibit over or whatever period might be agreed upon (Tr. 5744-5745).

The Witness (continuing): I know that an agreement was reached in 1924 between the executives of the Western Trunk Lines and the Southwestern Lines on the rates on lumber to Chicago. I presume that fixed the divisions but my understanding is there was some misunderstanding as to the agreement that was reached. We are of the opinion that this agreement applied only to the Blanket Territory; that there was no thought that this would extend it to the lower rated territory (Tr. 5745).

[fol. 1316] (Examiner Disque here said "Exhibit A-250 is received") (Tr. 5746).

(The statement described by the witness was thereupon received in evidence as Exhibit A-250.)

[fol. 1317] I now offer exhibit A-251 and this statement is confined to Arkansas. Mr. Sickel explained at length the rate construction between Arkansas points and points in Western Trunk Line terirtory. In substance his explanation was that rates to Arkansas common points were based differentially over St. Louis, Missouri. To so called local points prior to October 7, 1913 rates were based on full locals south of Thebes, Illinois plus so called proportional rates

north. Effective October 7, 1913 to these local points, through rates were established based on the regular differentials used in constructing the rates to Arkansas common points.

Numerous commodity rates, however, continued to be based on combination. In such cases the rates were based on full locals south of Thebes, Illinois and proportional rates north (Tr. 5746).

In my testimony as to Southeast Missouri, I stated that the records were not at all clear for the necessity for the proportional rates. I stated that the proportional rates were originally the divisions accepted by the Northern Lines on Texas traffic, and later those divisions were accepted on Missouri and Arkansas. Neither is the Committee record clear as to the necessity for the proportional rates on Arkansas traffic. I also stated that these proportional rates could be considered no differently than arbitraries or differentials to be added to the rates west of St. Louis or Thebes, Illinois and my opinion is the same as to Arkansas. The fact that the rates at Arkansas common points were based differentially over St. Louis and rates at local points originally based on combination using full locals south and proportionals north has resulted in a divisional basis which has been a source of constant trouble for a number of years, which will continue until such time as a clear and definite basis is placed into effect via the points at which the traffic is interchanged with Southwest Lines. [fol. 1318] Prior to the establishment of through rates to the local points the Southwest Lines insisted that the lines north of East St. Louis from Chicago were not entitled to any greater division than 65 per cent of the proportional rates applicable from Chicago to Thebes, Illinois. The contention was in that the rates to these points were originally based on Thebes the lines north of Thebes could not expect any greater division than the proportional rates, and that basis having been established via Thebes they could not expect via East St. Louis other than a prorate of the Thebes proportional rates. This having been the contention as to divisions to local points it also applied to Arkansas common points, or in other words on all Arkansas traffic the lines north of East St. Louis were restricted on traffic from Chicago to 65 per cent of the Thebes proportional rates (Tr. 5746-5747-5748).

It has been the practice of the Southwest Lines to publish rates to Thebes, Illinois—considerably lower than the rates to St. Louis, Missouri. The reason for that was apparent. It permitted the Southwest Lines to receive full rates to Thebes, Illinois, plus a division of the northern lines rates from Thebes, which division resulted in practically every case in excess of that which would accrue to them had the rates to Thebes been properly alligned with those in effect to St. Louis, Missouri or vice versa. There were few instances where the rates to St. Louis plus the rates north would result in the same total as the rates to Thebes plus the rates north, and in *fasiug* the rates on Thebes, Illinois and forcing the lines north of East St. Louis to accept a prorate of the low proportional rates, the Southwest lines received the benefit of approximately the local rates west of East St. Louis, Illinois in the division of the through rates on Arkansas traffic or in the division of [fol. 1319] rates constructed on combination of proportional rates north and full locals south. Where rates were based on Thebes, Illinois, using proportional rates north and full locals south, the proportional rate was the measure of the Northern Lines division via Thebes (Tr. 5748-5749).

Quite a large volume of this traffic was and is handled via East St. Louis, Illinois, thence to St. Louis, Missouri via this route it would not move through Thebes, Illinois. The Southwestern Lines such as the Frisco and Missouri Pacific, if the latter decided to handle traffic via its west side line—decided that there was an element of competition involved and using the argument that in that the Illinois lines accepted a prorate of the Thebes proportional rates with the east side lines the same basis should be applied with the west side lines. Unfortunately, some of the Illinois lines agreed to prorate the Thebes proportional rates via East St. Louis on traffic not moving via the Thebes gateway on Missouri and Arkansas traffic—this resulting in the West Side Lines receiving 35 per cent of a rate to which they were not a party. Whilst the Committee division sheets entered into this record show specific proportions to Thebes and also to East St. Louis applicable on traffic between Chicago and Milwaukee Divisional Groups and beyond, the fact remains that in actual practice the lines north of East St. Louis are not being accorded in all instances the Commit-

tee basis for divisions but are continually confronted with the question of prorating the Thebes proportions via East St. Louis (Tr. 5749-5750).

Page 1 of my exhibit shows the different bases applied on Arkansas traffic from Chicago Divisional Group. Pages 1-A and 1-B show that from Chicago to East St. Louis a prorate of the Thebes proportions on traffic handled [fol. 1320] through Thebes was being applied in 1916, to all Arkansas points regardless of the fact that the so called Thebes combination was destroyed in 1913 by publication of through rates to the local points. The prorate basis applied to common points also. Page 1-C shows that the C. & E. I. did not prorate the Thebes proportions via East St. Louis via West Side Lines but as stated other lines did prorate. In July 1923, when Division Sheet No. 5 was being issued to bring forward the old divisions to reflect the general rate changes, the Illinois lines suggested to the Southwest lines that a provision be incorporated in that sheet to provide that the Thebes proportions would not be prorated via East St. Louis, Illinois but the Southwestern Lines stated that as so many rates were originally constructed on Thebes combination or at that time—1923, were also based on Thebes, it would be not proper to include this provision. The Missouri Pacific representative, however, stated that that line would not expect the Northern lines to accept 65 per cent of the Thebes proportions unless the current combinations made on Thebes, Illinois (Tr. 5750).

The Division Sheet was issued without the provision that the Thebes proportions would not be prorated via East St. Louis and the result is confusion. It is not possible to state definitely what basis for divisions is being employed on Arkansas traffic, but if the Southwestern Lines in 1923 did not consider it necessary to continue the prorate basis it is peculiar indeed that they refused to place into the Committee sheet a provision that would clear up the situation. All that I have said with respect to prorating the Thebes proportions via East St. Louis may also be applied to Southeast Missouri. Page 1-D is a reproduction of a letter from Mr. W. H. Malcom of the Missouri Pacific dated April 26, 1926, file A. F. R. -656, to various auditors of the Northern [fol. 1321] Lines. It contains a suggestion for simplified percentages. In the third paragraph he states that the

traffic department has suggested that divisions via East St. Louis to points South of Gad's Hill and Fredericktown, Missouri be based on a prorate of the Thebes proportions, —further stating that the rates to that territor- were originally constructed over Thebes, Illinois. The rates to Arkansas local points were likewise originally constructed on Thebes, Illinois. Witness Sickel has indicated in all of his exhibits that the Northern lines received, when the rates were reduced on October 6, 1913, an increase in divisions and that the prorate basis was not applicable (Tr. 5750-5751).

If on traffic to points in Missouri, where the rates were originally based on Thebes combination the Missouri Pacific requires 35 per cent of the rates to Thebes,—it does not seem possible that to the Arkansas points to which the rates were also based on Thebes—the Southwestern lines voluntarily increased the proportions to the Northern lines as indicated in Exhibit A-143 and others.

Throughout Mr. Sickel's testimony I find that he has referred to the increase to the Illinois Lines under the 5 per cent case in 1914. The through rates to territory east of the Illinois-Indiana state line were not increased to reflect the 5 per cent advance, but the Southwestern lines accorded the Eastern lines the increase of 5 per cent in their proportions. When the Illinois lines requested similar treatment serious objections were recorded by the Southwest lines. After a long siege of negotiations, however, the Northern lines were allowed by the Southwest lines a division reflecting the 5 per cent increase.

Throughout the testimony of the witnesses for the Southwest lines, I find particular emphasis on the Milwaukee-[fol. 1322] Texas divisional basis whereunder the lines north receive 15 per cent, plus 20 per cent of the remainder for services to East St. Louis. The demands of the Southwest Lines for full rate to Thebes, Illinois, plus 35 per cent of the rate or division north however seems to be proper according to the witnesses for the Southwest Lines (Tr. 5752-5753).

Throughout Mr. Sickel's testimony and exhibits he has used 56 cents scale for application to East St. Louis from Chicago. As that scale is not being applied uniformly an entirely different picture would result if revenue to the

Northern Lines were based on a prorate of the Thebes proportions. Exhibit A-143 shows information as to rates and divisions to Bald Knob, Arkansas. Witness states that that exhibit was illustrative of the situation at all Arkansas local points to which no through rates were in effect prior to October 7, 1913. Effective on that date through rates to these local points were published differentially over St. Louis, Missouri resulting in reductions to all Arkansas local points. The necessity for the reduction is not apparent as is shown on page 2 of my exhibit. The rate to Higginson, Arkansas immediately south of Bald Knob, Arkansas, was the same as the combination rate to Bald Knob on first class and somewhat lower on the remaining classes. The Southwest lines, however, scaled their rates when publishing the through rate as of October 7, 1913 and have placed into the record numerous exhibits showing the shrink in the proportions to the Southwestern lines—resulting from their own decision to place these rates on a differential basis Chicago over East St. Louis, which was made of their own volition without the concurrence or knowledge of the Illinois Lines (Tr. 5753-5754).

In Exhibit A-143 Mr. Sickel shows the reduction in Southwest Lines revenue resulting from the reduction in the rate [fol. 1323] and an increase in divisions to the lines north. Whether or not the Northern Lines received the 35 cent scale as shown in that Exhibit as of October 7, 1913 is questionable but regardless of that Mr. Sickel did not show in his exhibit that on October 6, 1913 the division north of East St. Louis was 62.7 per cent of the local rate north, wherein revenue to the Southwest lines, due to the compounding basis in effect, resulted in their receiving in excess of 100 per cent of the locals from East St. Louis, Illinois. It doesn't seem fair to make comparisons from October 6, 1913 without giving consideration to the fairness of the division north of East St. Louis, Illinois. Page 2-A shows the divisions north and south in effect on October 6, 1913 to representative points. In each case shown the basis for divisions then in effect accorded Southwest Lines in excess of local rates. Page 2-A also shows a percentage comparison of the division as of October 6, 1913 north with a mileage basis. Even under the 35 cent scale as of October 7, 1913 shown in exhibit A-143, the division north of East St. Louis,

Illinois on 10 classes is only 32 per cent of the through rate. Surely some thought should be given to the measure of the divisions in effect prior to the rate changes before serious consideration can be given to the statements that the Southwestern Lines have been penalized by the rate and divisional changes (Tr. 5754-5755).

Page 3 is self-explanatory. Whatever occasioned the reduction in the rate or the shrink, if any, in the proportions seems to be immaterial. Page 3 will indicate clearly that the rate has been increased 69.9 per cent over October 7, 1913 but Southwest Lines revenue has been increased 89.4 per cent. The shrink, if it can be so considered, in view of the statement I have just made, seems to have been fully taken up and something in addition. Page 4 shows the 1913 [fol. 1324] divisional situation at Bald Knob, Arkansas. It doesn't seem likely that the Southwestern Lines reduced the rate and voluntarily accorded the lines north increased divisions, but even so under the October 7, 1913 basis the lines north received materially less service considered than they should have received. Page 5 of my exhibit shows the current divisions of the current rates, Chicago to Bald Knob, Arkansas. Due to the fact that two bases for divisions may be operative, I have shown the divisions thereunder. On basis of figures for Illinois Lines shown in Exhibit A-143 lines north receive 30 per cent of the through rate and perform 49 per cent of the haul. On basis which Illinois lines understand may be applied, Northern Lines receive 22.5 per cent of the through rate. This page is also representative at other local points where Southwestern lines reduced the rates to the differential basis over St. Louis, Missouri (Tr. 5755-5756).

In Exhibit A-142 Mr. Sickel showed reductions in revenue to the Southwest Lines on Little Rock, Arkansas, occasioned by rate changes, etc. Page 6 of my exhibit shows in 1896 lines Chicago to East St. Louis on Little Rock traffic received 29.2 per cent, in 1898 32.3 per cent and at the present time either 28 per cent or 20.8 per cent of the through rate. The haul north of East St. Louis is 44.4 per cent of the total. In 1898 the division South, total of 10 classes, was 375 and the through rate 554. Current rate is 1025.5—an increase of 471.5 or 85 per cent. The current division is 738.5, an increase over the 1898 division in excess of that made by the

Southwest Lines. Due to the two bases for divisions operative via East St. Louis I have shown the effect in each case. Lines North receive either 28 per cent or 20.8 per cent of the through rate for performing 44 per cent of the haul. Witness Sickel complained of the action in placing Milwaukee on the Chicago basis to Arkansas. He shows on [fol. 1325] Page 3 of Exhibit A-142 that the Southwest Lines reduced their revenue materially in 1898 as a result of that action (Tr. 5756).

In my opinion, there should be first taken into consideration, whether or not the 1896 divisions were proper. Mr. Sickel seems to have overlooked the fact entirely that the division North of East St. Louis was very low and the division South of East St. Louis within 4 per cent of 100 per cent of the local rate. It isn't fair as I see it to compare the amount of the reduction against an unfair factor.

Page 6-A, however, regardless of that, is self-explanatory. It indicates in 1896 the average per ton mile rate west was 215 per cent of the per ton mile revenue East. In 1898 due to the reduction occasioned by placing Milwaukee on the Chicago basis the Southwestern Lines revenue is 171 per cent of that accruing to the Illinois lines. This, of course, indicates that the Southwest Lines assumed a reduction, but the 1898 divisions do not seem to be fair to the Northern Lines. Of course, I am not familiar with the situation existing in 1898 but it doesn't seem that 37.7 per cent of the rate for joint haul north of 50.7 per cent of the total is a fair comparison. Whatever reduction was made seems to have been recovered as the current situation will indicate. In 1896 the revenue west was 215 per cent of the revenue east, in 1898 171 per cent and currently 211 per cent (Tr. 5756-5757).

These figures are based on the divisions shown by Mr. Sickel. I am not certain that the basis shown has been applied all these years, but regardless of that fact there seems to be no good reason why the Commission should take into consideration, as I see it, the fact that the Southwest Lines have shown, by numerous exhibits various shrinkage in their revenue which doesn't mean a thing, when the fair-
[fol. 1326] ness of the original factor has not been determined.

Exhibit A-142 shows divisions between Milwaukee, Wisconsin and Minneapolis and Little Rock, Arkansas. Page 7 of my exhibit shows for 364 miles at Milwaukee and 568 miles at Minneapolis, lines north are receiving 32.7 per cent and 35.4 per cent respectively for 61 per cent of the haul at Milwaukee and 62 per cent at Minneapolis. Page 8 shows divisions between Chicago and Little Rock, Arkansas, via Thebes, Illinois. In 1896 via Cairo, Illinois lines north received 33.3 per cent of the rate and performed 59.7 per cent of the haul, in 1898 37 per cent, and at present 32 per cent or 20.8 per cent as illustrated on Page 6.

Page 9 shows the divisions between Little Rock, Arkansas and Chicago territory west of the Mississippi River via East St. Louis, Kansas City and Thebes, Illinois via East St. Louis. Present division is 28 per cent north via Thebes 32 per cent, and via Kansas City only 23 per cent. Page nine of Exhibit A-251 replies to the exhibit filed by Mr. Sickel (Tr. 5757-5758).

Page 10 via Kansas City Lines east at Cedar Rapids 23 per cent and at Davenport only 21 per cent. Portion of haul east is 37 per cent at Cedar Rapids. At Des Moines via East St. Louis lines north receive 35 per cent—portion of haul 49 per cent. All of these pages show in my opinion that the current divisions, to the lines north are too low. Mr. Sickel proposed certain percentages for application on Arkansas traffic. Pages 11 and 12 of my exhibit show the effect of this basis. In arriving at the proposed basis via East St. Louis Mr. Sickel suggests an average of 10 classes to Thebes from eighteen representative points—Joliet and Kankakee omitted—applied to the rates south of Thebes. He then suggests that that figure be prorated via East St. Louis on basis of 65 per cent north, 35 per cent south. Ex- [fol. 1327] hibit on traffic via Thebes, shows 39 cars from Illinois to Arkansas—29 of which originated at points 375 miles from Thebes, yet he proposes an average rate from 18 representative points included in which are points 200, 210, 230 and 240 miles north (Tr. 5759).

If a prorate basis as suggested is satisfactory to the Southwest lines for application via Thebes to determine the factor north to be used in constructing divisions via East St. Louis, Illinois a prorate basis should be satisfactory—not only for the purpose of placing into effect a scientific

basis for percentages, but for practical application. By that I mean a rate prorate basis might properly be applied via Thebes, Illinois using local rates to and from that point for application on traffic interchanged at that point. And the same basis applied via East St. Louis or Kansas City. Mr. Sickel also suggested that whatever divisions are placed into effect via East St. Louis be made applicable via Kansas City, Missouri. Page 10 of my exhibit shows that the lines from Chicago territory west of the Mississippi River at the present time are only receiving 23 per cent of the through rate—yet he proposes to reduce that to 21.5 per cent. In my opinion the proposed basis for divisions does not merit any consideration whatsoever.

This proposed basis further indicates that the Southwest lines whilst criticizing the Northern Lines severely as to the Milwaukee-Texas basis for divisions via Chicago, suggest a basis similar for application on future traffic. After determining the divisions via East St. Louis, based on 65 per cent north of East St. Louis of a prorate basis over Thebes, it is then suggested that the divisions via Thebes be made the same difference over the proposed East St. Louis division as the difference in the local rates from Chicago to Thebes, Illinois versus East St. Louis, Illinois (Tr. 5759-5760).

[fol. 1328] For basing purposes via East St. Louis, Mr. Sickel suggests a percentage division north of Thebes of 33 per cent but for actual operation via Thebes on traffic interchanged at Thebes it is suggested that 25½ per cent be the division. It seems that the 65 per cent and 35 per cent basis will never be lost sight of by the Southwest lines regardless of the impropriety of that basis. The letter reproduced on Page 1-D so indicates. The divisions should apply to and from the actual point of interchange. The Commission in 31 I. C. C. 675 held accordingly. Page 13 shows percentage of haul versus percentage of revenue received on all Arkansas traffic taken from Witness Bones Exhibit A-116. Pages 14, 14-A and 14-B of my exhibit show a comparison of the present divisions from Chicago, Illinois to East St. Louis, Illinois at representative Arkansas points, with local rates east and west.

In Exhibit No. 155 Mr. Sickel shows that the lines north of East St. Louis are receiving full local rates and the

lines south 11.5 cents less than locals on potatoes from Minnesota points to Little Rock, Arkansas—this is nothing unusual. When rates are less than combination neither set of lines can expect full local rate. Lines north are receiving on potatoes from Waupaca for 499 miles to East St. Louis 27.5 cents, lines south 33.5 cents and via Thebes for 583 miles lines north receive 33.5 cents, lines south 27.5 cents to Little Rock (Tr. 5760-5761).

From Waupaca at Batesville, Arkansas, a point 296 miles west from St. Louis and 201 miles from Thebes, the lines north of East St. Louis receive 27.5 cents for 499 miles, lines south 33.5 cents for 583 miles compared with 27.5 cents [fol. 1329] south for 201 miles. And from Waupaca to Wagoner, Oklahoma to which point the rate is 59½ cents under the established division, the lines north receive via East St. Louis 20 cents for 499 miles service, south 39½ cents for 587 miles. The fact, therefore, that lines north are receiving full local rate on that particular traffic and lines south less is not pertinent. In Exhibit A-156 Mr. Sickel showed in the division of through rates on cheese from Wisconsin points to Little Rock, that the division north of East St. Louis of 46½ cents is only 1 cent less than the proportional rate North, and that the division south is 9½ cents less than the commodity rate. He did not indicate, however, that the division north was 13 cents less than the local rate from Milwaukee to East St. Louis, Illinois. He also failed to point out specifically that the lines north for 364 miles, using Milwaukee mileage, it being considerably greater from the cheese producing points, receive only 46.5 cents to East St. Louis and Southwestern Lines for haul is 353 miles from East St. Louis to Little Rock receive 86.5 cents (Tr. 5762).

Another point raised by Mr. Sickel is the fact that the Northern Lines receive full class proportions in the division of many commodity rates on which there are no commodity divisions. The Southwest Lines suggest that the proper division for the Illinois Lines is to first determine what percentage the commodity rate is of the class rate, and apply that percentage to the class proportion north. If a commodity rate bears no relation whatever to the class rate—that basis is improper. As the class proportions

north are unduly low to the Northern Lines, the result, by the application of a still lower basis, that is, a percentage of the low class proportion, is apparent. It works entirely to the advantage of the Southwest Lines. Divisions of com-
[fol. 1330] modity rates, which bear no relation to class rates, should be established on their merits. On exhibits Nos. A-144 to 147 is shown the fact that revenue to the southwest lines is less than the local rates south. Page Nos. 14, 15-A and 15-B of my exhibit show the same situation north or east of the gateways together with other comparisons.

We offer exhibit A-251 (Tr. 5762-5763).

(The statement described by the witness was thereupon received in evidence as Exhibit A-251.)

[fol. 1331] Cross-examination:

Page 12 of Exhibit A-249 near the bottom of the page, purports to show all of the lumber interchanged via the East St. Louis gateway from Texas to Illinois points and shows the per ton mile earnings to the Southwestern Lines of 9.25 and ton mile earnings to the Western Trunk Lines of $7.48. It is a fact that the weight of all cars will be the same at each side of the interchange point on this interchange traffic (Tr. 5764).

If my figures are incorrect, they were taken from Mr. Bones' exhibit. The ton mile earnings were taken from that exhibit. I did not compute them at all.

As to the lumber originating on the tap lines, I don't know if the Southwestern Lines make any absorption. The Southwestern Lines do pay the tap lines a division. I presume that would come out of their portion of the revenue. I stated that the absorptions at Chicago are reciprocal arrangement. That is between the lines parties to the rates. Most of the lumber moving from the Southwest to Western Trunk Line Territory moves over lines involved in this case. If the C. B. & Q. switched for the Rock Island the Rock Island would switch for the C. B. & Q. (Tr. 5765-5766).

E. J. SCHMIDT was thereupon recalled as a witness and testified as follows:

Direct examination:

At Mr. Outlaw's request I rechecked the Texas-Illinois figures on Exhibit A-249 and found that the figures had been reversed. The corrected figures are revenue per ton mile for the Southwestern Lines 7.48 mills; for the Western Trunk Lines 9.25 mills.

Mr. Stanage in his testimony talked about the expense to the Southwestern Lines in handling less carload freight (Tr. 5767).

[fol. 1332] A study of C. & E. I. absorptions and costs of handling at Chicago has been made for week October 19th to October 24, 1925, which is a typical week, and I would like to read into the record the following: L. C. L. traffic to Texas:—101 tons—Total revenue north $828.31, out of which actual absorption to the C. J., Illinois Tunnel, etc., amounted to $164.33 or about 19.8 per cent of the total revenue north of East St. Louis, Illinois. L. C. L. traffic to Missouri:—155 tons—total revenue north $1,235.13, out of which actual absorption to the C. J., Illinois Tunnel, etc., amounted to $229.33 or 19.4 per cent of the revenue north. L. C. L. traffic to Oklahoma:—101 tons—total revenue north $733.27 out of which actual absorption to the Illinois Tunnel, C. J., etc., amounted to $135 or 18.4 per cent of the revenue north of East St. Louis. L. C. L. traffic to Louisiana:—18 tons—total revenue north $215.84, out of which we absorbed $23.10 or 11 per cent of the revenue received of East St. Louis. L. C. L. traffic to Arkansas:—38 tons—total revenue north $345.61 out of which we absorbed $52.52 or 15.3 per cent of the revenue received (Tr. 5768).

The C. & E. I. is quite a heavy handler of this L. C. L. freight to the southwest. It operates a number of packet cars to the Southwest. The figures I have read are revenue and absorptions during the week.

Cross-examination:

That is the absorptions and applies not only to trap cars. A lot of stuff comes through the Merchants Lighterage or the Illinois Tunnel. This refers to freight received from the tunnel (Tr. 5769).

We could receive the same freight at our warehouse and [fol. 1333] freight station in Chicago, but the shipper, of course, has the option of using the tunnel as well. We have given him that option under the tariffs. That is an entirely voluntary thing on the part of the Chicago lines. They were not required to do so (Tr. 5770).

W. G. WESCOAT was thereupon called as a witness and testified as follows:

Direct examination:

I live in St. Louis and am Chief of the Division Bureau of the Wabash Railway (Tr. 5770).

Attorney Muckley here conceded the witness' qualifications.

My first exhibit will be No. A-252. Sheet No. 1 is a statement of class rates and divisions between Chicago and Texas common points via East St. Louis, showing the rates in effect December 1, 1892, and the present rates. Out of the present rates the lines north are only receiving 75.3 per cent, while the Southern Lines have succeeded in maintaining the same ratio. In other words, the percentage relationship of proportion of lines north has decreased 8.5 per cent, with no change south. Sheet No. 2 shows rates and divisions between Chicago and Texas common points, except Dallas and Fort Worth via Kansas City, in effect December 1, 1892, August 20, 1922, and the present basis. The local rates north and south of Kansas City and the percentage relationship of the division to the local rate. There has been no material change in the ratio, either north or south of Kansas City in this respect, however, we have shown what the result would be by applying a rate prorate using the proposed scale from the Chicago to Kansas City under I. C. C. Docket Ex Parte 87, Sub. 1 and the proposed rate from Kansas City to Texas common points in I. C. C. Docket 13535, which would result in an average increase [fol. 1334] to the Western Trunk Lines from 42.8 cents to 58.4 cents (Tr. 5771-5772).

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I was talking about the proposals in Ex Parte 87. I am not familiar with whose proposals they were.

Attorney Towner here conceded that the witness had taken the proposals of the carriers north of the junction and the proposals of an Examiner south of the junction.

The Witness (continuing): I am not familiar with that rate case at all (Tr. 5772).

Sheet No. 3 shows rates and divisions between Des Moines and Texas common points showing same information as on sheet No. 2, except that we have not shown the rates from Des Moines in 1892 as we were unable to secure this information as the tariffs were not available. It will be noted that using the proposed rates north and south of Kansas City would increase the average earnings of the lines north from 37.5 cents to 41 cents. Sheet No. 4 shows rates and divisions between Davenport and Texas common points. Same information as on sheet No. 2. Sheet No. 5 shows rates and divisions between Chicago and Dallas—Fort Worth via Kansas City. Shows the same information as to the Texas common points except that the through rates to Dallas and Fort Worth are the same as to the Texas common points, however, the local rates south of Kansas City are lower, consequently a rate prorate would reflect to the northern lines greater proportions to Dallas and Fort Worth than to Texas common points (Tr. 5773).

Sheet No. 6 shows rates and divisions between Des Moines and Dallas—Fort Worth via Kansas City. It differs from the other sheets to the extent that it shows that the lines north receive slightly greater percentage of their local rates than the lines south. This is due to the fact that Des Moines is a short haul point for the Western Trunk Lines, however, using the proposed rates north and [fol. 1335] south of Kansas City as factors would increase the average earnings to the lines north from 37.5 cents to 47.1 cents per 100 pounds. Sheet No. 7 shows rates and divisions between Davenport and Dallas—Fort Worth. Same information as on previous sheets and shows that the lines south are receiving out of the present rates 91.3 per cent of their local rates, while the northern lines receive eastbound 74.8 per cent; westbound 72.8 per cent. The ratio of the southern lines has increased 5 per cent since 1902.

Attorney Towner here offered the statement as Exhibit A-252.

The Witness (continuing): I want to make the further statement in connection with that that these statements show they apply southbound only, but the same rates and divisions apply northbound also (Tr. 5773-5774).

(The statement described by the witness was thereupon received in evidence as Exhibit A-252.)

[fol. 1336] Here there was a discussion as to whether the Exhibit should be received because it was not the original. Attorney Towner stated that he was going to bring the original in and further discussion of the matter off the record ensued.

The Witness (continuing): I think that I stated in connection with the Davenport sheet that the proportions the Southwestern Lines were getting were now five per cent more than back in 1892. I had reference to the statement in the top of the block, percentage relationship of division to local rates, 86.5 in 1892, and the last figure in the last block, 91.3. That was what I had in mind. I don't know what the reason for that was. It is just the way it falls, by using the average it shows at present south the ratio is 5 per cent greater than it was in 1892 (Tr. 5775).

It must have been because of an increase in the rates in the Southwest. We can tell. The rates are on there. It shows that the rate south first class was increased from 88 to 97.5. The Western Trunk Line rates were increased $1.26.

Attorney Towner here stated that the rates are all there, so that by comparing them you can see what change in the percentage was made.

The Witness (continuing): We just simply took the rates and that was the result we got (Tr. 5776).

I assume that the rates shown in Chicago would apply at all points taking Chicago rates. The local rates to East St. Louis would probably not all be the same. The statement only covers Chicago. If it applied to anything else but Chicago I would have to check the local rates. The exhibit was prepared under my direction (Tr. 5777).

Exhibit A-253 consists of three sheets showing the present rates and divisions between Chicago and representa- [fol. 1337] tive points in Louisiana via East St. Louis. The points selected are those used by Mr. Sickel in his exhibit No. A-168. Established percents are in effect between Chicago and Shreveport, Pinesville, Monroe, West Monroe, Boyce and Alexandria, Louisiana. To the territory south of these points there is no agreed basis of divisions via East St. Louis or Cairo-Thebes, however, in making settlements the Southern lines arbitrarily allow the lines north the established Texas common point percents applied to the actual rate to the Louisiana points which rates are on a considerably lower scale than the Texas rates. The service of the lines north is the same, however, under the plan the Southwestern Lines use our revenue is considerably lower on the Louisiana traffic than on Texas traffic. In our statement we have used the Texas percentages, as these are the proportions that are being allowed us in current settlements. Sheet No. 2; rates and divisions between Chicago and Opelousas and Bunkie. Same information as on sheet No. 1 the rates being practically the same (Tr. 5778).

Sheet No. 3; rates and divisions between Chicago and Shreveport. The established percentages allow the lines north of East St. Louis 30 per cent on an average earning on the ten classes of 35.7 cents. The through class rates are the same from Chicago to Shreveport as they are to Randolph and Natchitoches.

The statement was thereupon offered in evidenec as Exhibit A-253 (Tr. 5778-5779).

(The statement described by the witness was thereupon received in evidence as Exhibit A-253.)

[fol. 1338] The lines north of St. Louis take Texas common point revenue in connection with traffic from Louisiana to East St. Louis and points north if they follow instructions. I am sure those are the instructions so far as the Wabash is concerned. That is not an agreed basis. That is on northbound traffic (Tr. 5779).

Exhibit 254 shows rates and divisions between Chicago and representative points in Louisiana. Shows the same information as Exhibit A-253 except that the route is via Cairo, Gales or Thebes. Sheet No. 2; to Opelousas and

Shreveport. To Shreveport, the lines north receive 40 per cent, however, the sheet carries a clause retricting the lines north and south of these junctions to their local rates. Sheet No. 3; rates and divisions between Chicago and Bunkie, Louisiana. Present divisions allow the lines north 22 percent, Texas percents.

The statement described by the witness was thereupon offered in evidence as Exhibti A-254 (Tr. 5780).

(The statement described by the witness was thereupon received in evidence as Exhibit A-254.)

[fol. 1339] Exhibit A-255 shows rates and divisions between Milwaukee and representative points in Louisiana. Sheet No. 2 is rates and divisions to Opelousas and Bunkie. Sheet No. 3; rates and divisions between Milwaukee and Shreveport (Tr. 5780).

By applying the Louisiana percents or these Texas percents on south bound Louisiana traffic we have failed to show on this exhibit that north of Chicago or Milwaukee they get 15 per cent of the through rate and the line between Chicago and East St. Louis gets 20 per cent of the remainer. I am now talking about what will be Exhibit A-255 when numbered. Referring to the second column near the top of the page, just under second class should be 46.4; above that 232. The next figures 196, 161, and 137. Reading them down, 46.4, 185.6, and 97. The second column, 196, 30.2, 156.8, 81.9, 114.1. The others are all right (Tr. 5781).

The exhibit described by the witness was thereupon offered in evidence as Exhibit A-255 (Tr. 5782).

(The statement described by the witness was thereupon received in evidence as Exhibit A-255).

[fol. 1340] Exhibit 256 is a statement of rates between points in Missouri and Monroe, Louisiana and Shreveport via St. Louis, Missouri. The rates from these points being on the St. Louis basis. Established percents are in effect. Mr. Sickel in his Exhibit A-175 attempts to show that the proportion allowed the lines north or west of St. Louis is a shrink in the Southwestern Lines' proportion. This is hardly fair to the Northern Lines as we could hardly be expected to handle this traffic for nothing. This rate situa-

tion being one that was forced on the lines as a whole and is due to the spread in the St. Louis rates, and we have shown on this sheet not only the amount that the lines south of St. Louis receive less than their local rates, but likewise the amount the lines north receive less than their locals, this being the so-called shrink in the Exhibit referred to. Sheet No. 2 shows same information as sheet No. 1 between the same points in Missouri and Lake Charles and LaFayette, Louisiana, to which points the lines north are allowed Texas percents (Tr. 5782).

Sheet No. 3; between the same points in Missouri as on the previous sheet, and Donaldsonville, Louisiana where the lines north are allowed Texas percents.

The statement described by the witness was thereupon offered in evidence as Exhibit A-256.

(The statement described by the witness was thereupon received in evidence as Exhibit A-256.)

[fol. 1341] Exhibit No. A-257 refers to Trovillion's Exhibit No. 226 and shows the rates and divisions on cotton seed products from Dallas, Texas to Chicago, Peoria, St. Paul and Cedar Rapids, Iowa via both Kansas City and East St. Louis. This exhibit shows the through rate, the divisions north and south of the junction, local rates north and south and the percentage relationship of the division to the local rates both north and south, what the divisions would be based on a rate prorate and the percentage relationship that would result from the application of divisions based on a rate prorate, the mileage and the divisions that would result via the application of the mileage prorate, and the percentage relationship to the local rates based on mileage prorate (Tr. 5783).

The mileages used are those shown in Parson's exhibit No. 77, which are the mileages that have been used in various exhibits filed in this case. The rates on cotton seed products from Southwest to points in Western Trunk Line territory have recently been revised and are published on a mileage basis in Southwestern Lines' Tariff 135-A, Western Trunk Line Tariff 180-A. No agreement covering divisions has been made in connection with these new rates and in arriving at the divisions we have used the old rates and divisions as factors, this being the customary plan in the

absence of any agreed figures. To Chicago for example via Kanass City under this basis the lines north receive 12.5 cents, south 30.5 cents, the local rate being north 21½ cents, south 34 cents. This results in the lines north receiving only 58.1 per cent of their local while the lines south receive 89.7 per cent. A rate prorate would allow the lines north 16.7 cents, south 26.3 cents. A mileage prorate would allow the lines north 20.2 cents, south 22.8 cents, and would reverse the percentage relationship based on our present division and would allow the lines north 94 per cent of their local, south 67.1 per cent (Tr. 5784).

[fol. 1342] To Peoria via Kansas City; the rate through on cake and meal is 41 cents, on hulls 31 cents. We have used a revenue prorate of the old rates and divisions to arrive at proportion of 12.6 cents shown to the lines north of Kansas City. The proportion north on the hulls is 7.9 cents, south 23.1 cents, which results in a percentage relationship to the local rate north of 40.5 per cent, south 88.8 per cent. Via East St. Louis; the proportions to all the points shown on this statement speak for themselves.

We did not use the old rate to make a rate prorate. To get the divisions of the present rate we used the former rate and the former divisional factors. We used the former rates because we had no other basis to use. We had not agreed on how these new rates would divide. The old rates were not prorates. They were just agreed divisions, applying in connection with the through rates. We made a new division based on the old rates and divisions to get the percentage factor, arriving at a through rate on that percentage (Tr. 5784-5785).

The statement described by the witness was thereupon offered in evidence as Exhibit A-257(Tr. 5786).

(The statement described by the witness was thereupon received in evidence as Exhibit A-257.)

[fol. 1343] Exhibit A-258 is a statement of rates and divisions on live stock and fresh meat from Ft. Worth to Chicago via Kansas City and East St. Louis. The information shown is the same as on cotton seed products covered by Exhibit No. 257. Divisions via East St. Louis are on an arbitrary basis and while our file does not show how these figures were arrived at it is our recollection they were the

old local rates advanced in the same measure as the through rates. Fresh meats. The through rate on fresh meat from Ft. Worth to Chicago is 74.5 cents. The established divisions allow the lines south of Kansas City 70 per cent. However, they are restricted to their local rates as a maximum, and 70 per cent would allow them 52 cents or 3 cents in excess of their local rates (Tr. 5786).

The statement described by the witness was thereupon offered in evidence as Exhibit A-258 (Tr. 5786-5787).

(The statement described by the witness was thereupon received in evidence as Exhibit A-258.)

[fol. 1344] In describing the divisions on live stock as arbitrary divisions I used the word "arbitraries" meaning that it is not on a percentage basis. We call that arbitrary divisions. We do not mean they are arbitrarily set or anything like that. They are just divisions in cents per hundred pounds.

Exhibit A-259 is rates and divisions on sulphur from Freeport, Texas to Appleton, Wisconsin. This destination was selected for the reason that this commodity is used in the manufacture of paper and we found that there was a steady movement to Appleton.

The statement described by the witness was thereupon offered in evidence as Exhibit A-259 (Tr. 5787).

(The statement described by the witness was thereupon received in evidence as Exhibit A-259).

A statement of rates and divisions on agricultural implements from Chicago to Dallas, Houston and Fort Worth via Kansas City and East St. Louis.

The statement described by the witness was thereupon offered in evidence as exhibit A-260 (Tr. 5788).

(The statement described by the witness was thereupon received in evidence as Exhibit A-260.)

The Witness (continuing): This is a statement of rates and divisions on iron and steel articles from Chicago to Dallas, Houston and Fort Worth, via Kansas City and East St. Louis.

The statement described by the witness was thereupon offered in evidence as Exhibit A-261 (Tr. 5788).

(The statement described by the witness was thereupon received in evidence as Exhibit A-261.)

[fol. 1345] The Witness (continuing): The next exhibit is a statement of rates and divisions on molasses from New Iberia, Louisiana, to Chicago, Illinois, and Clinton, Iowa (Tr. 5788).

There are no established divisions from New Iberia to Chicago via East St. Louis and we have used the same basis the Southwestern Lines use on this traffic, that is, Texas percents.

The statement described by the witness was thereupon offered in evidence as Exhibit A-262 (Tr. 5789).

(The statement described by the witness was thereupon received in evidence as Exhibit A-262.)

[fol. 1346] The Witness (continuing): Exhibit No. 263 is a statement of rates and divisions on oyster shells from Berwick, Louisiana to Muscatine, Iowa, and St. Paul, Minnesota via East St. Louis and Kansas City. Via Kansas City; this division being based on Texas percents, that is, 23½ per cent, south 29.4 cents. As previously stated the application of Texas percents to these Louisiana rates is not a matter of agreement between the Northern and Southwestern Lines. However, this basis is used for the reason that the Southwestern Lines will not agree to any other basis. Via East St. Louis; the Southwestern Lines have petitioned the Central Freight Association Lines to publish through rates to points in C. F. A. territory and the Southwestern Lines have agreed to accept a fixed proportion to East St. Louis of 20½ cents, which will be accepted by them as a constant proportion to East St. Louis regardless of the point of destination. While the divisions they contend are proper to Western Trunk Line Territory, at the same time they are exceeding the 20½ cents proportion by 10.9 cents to Muscatine and 12.1 cents to St. Paul. If this same proportion was accepted by the Southwestern Lines on traffic to points in Western Trunk Line territory

the result would be that the Western Trunk Lines' earnings would be very materially increased.

The statement described by the witness was thereupon offered in evidence as Exhibit A-263 (Tr. 5789-5790).

(The statement described by the witness was thereupon received in evidence as Exhibit A-263.)

[fol. 1347] I also got up a statement with respect to the L. C. L. traffic handled by the Wabash from Chicago to East St. Louis. We handle a considerable volume of that traffic. In Exhibit A-264 is an analysis of a day's merchandise cars (Tr. 5790).

(Here followed a discussion as to whether or not this rebuttal testimony. Attorney Towner said that it was rebuttal of testimony of Witnesses Stanage and Sickel who testified at some length with respect to the cost they incurred in handling less than carload traffic (Tr. 5790-5791).

The Witness (continuing): This is an analysis of the merchandise out of Chicago for the day of November 3rd, 1925. Some of these cars did not run till the next day, so the dates show the second or third. This merchandise is assembled through various agencies as shown on the top sheet. Some of it comes through the Chicago Warehouse & Terminal Company; other through trap cars. We found out the weight, the total weight of the trap cars and the total expense to get into our depot and to divide the weight into the total expense to get the average cost in cents per 100 pounds, and we have shown in connection with each of these various agencies the net amount in cents per 100 pounds that we paid on this merchandise, and against that we charged only that proportion that went to the Southwest in working out these figures shown on the succeeding sheets (Tr. 5791-5792).

The first car shown on the first sheet shows that we paid a freight rate of 9 cents per 100 weight to the Chicago Warehouse & Terminal Company for underground transfer. The next is a flat rate on the trap car from the Chicago Junction Railway. We paid them 8 cents. The next is a trap car and switching by the Manufacturers Junction Railway, B. & O. C. T. and C. R. & I. The Manufacturers

get an arbitrary of 8 cents, the B. & O. C. T. charge of $4.95 per car and the C. R. & I. a charge of $4.05 per car, [fol. 1348] making the total $9. There was contained in the car 22,748 pounds of merchandise, which equaled 4 cents that we paid to the B. & O. C. T. and the C. R. & I. The total absorption of that car is 12 cents per hundred pounds. That same plan was followed through the rest of the exhibit (Tr. 5792-5793).

Referring to Sheet 2 at the bottom, I have shown the absorptions and the net revenue remaining. That explanation will apply to the remaining sheets of the exhibit. I might also add that we have shown the total amount of merchandise that was put in that car. Some of it came from beyond Chicago and where it came from a point in Western Trunk Line territory we have shown in the column of earnings the proportion accruing to East St. Louis as well as on the Chicago business (Tr. 5793).

We have shown on the bottom there that, for example, on that first sheet, that it has reduced the net percentage proportion of the lines north of East St. Louis to 15.5 per cent, instead of 30, which would be the normal per cent to Texas points, and that the amount paid, $11.91 was 24 per cent of our revenue. The same explanation applies to every sheet. In the last column where I show the word "proportion" that is in dollars and cents per shipment. The $11 on that shipment is the proportion of the lines south.

The statement described by the witness was thereupon offered in evidence as Exhibit A-264 (Tr. 5794).

(The statement described by the witness was thereupon received in evidence as Exhibit A-264.)

[fol. 1349] I think all of this goes down via the Cotton Belt or the Missouri Pacific and they do not cross the river at St. Louis. They take it down over the bridge at Thebes (Tr. 5795).

Cross-examination:

This is carload traffic. It runs through as a carload from Chicago to Texarkana. The next one breaks at Monroe.

That is shown on each sheet, where these cars are loaded to. They are through cars loaded from Chicago to these points. A lot of our cars would run across the river at St. Louis; the M.-K-T for example, because we do not load any through cars for the M-K-T. The same would be true of the C. & E. I. and the C. & A. on anything in connection with the road that does not go down the other way (Tr. 5795).

Other cars delivered to either the Missouri Pacific or the Cotton Belt at East St. Louis, the receiving line absorbs the switching charge at East St. Louis. Those amounts are not deducted from the revenue of the Southwestern Lines. This statement was just made to show what the actual cost was to get this stuff to our freight house. That is traffic handled through these agencies.

Mr. Towner: The deductions of the Southwestern Lines have already been shown, Mr. Burg.

Mr. Burg: Yes, but not in these exhibits.

Mr. Towner: No, not in this exhibit.

Exam. Disque: When the Southwestern Lines made their showing they did not show these deductions, did they?

Mr. Towner: No, if they had, we would not be showing them (Tr. 5795-5796).

Exhibit A-259 is one relating to sulphur. One of the purposes of the exhibit is to show the percentage relationship of the divisions received by the lines north and south of [fol. 1350] the junction respectively on the local rates. I do not know of the sulphur originating at Kansas City and moving to Appleton, Wisconsin. It does move in large quantities from Texas to Kansas City. The rate from Texas to Kansas City is 32.5 cents for 816 miles and from Kansas City to Appleton for 612 miles is 33½ cents. I could not say whether the rate level generally in the Southwestern Territory is higher than Western Trunk Line Territory. I don't know about that (Tr. 5796-5797).

The rate from Texas to Kansas City is relatively lower than the rate from Kansas City to the Western Trunk Line Territory. That is shown right on the statement. There is not such a big difference, only a cent a hundred and 200 miles difference and a higher rate level in the Southwest.

I don't know whether the rate from Kansas City to Appleton is a class rate. The other exhibits showing commodity rates are based on the same composition, that is, they are just a statement of what the divisions would be on a rate prorate. That is the relationship of the divisions to the rate prorate (Tr. 5798).

The local rates shown on these commodity statements north and south of the junctions are the rates that would actually move the traffic if there were no through rates. We use whatever the rate is; if there is a commodity rate we use it, and if there is a class rate we use it. I don't know whether it is a class or a commodity rate. The commodities that move northbound in the Southwest would move through the Kansas City gateway, no doubt. I don't know whether they move there locally in most cases. We do not run to the Southwest from Kansas City; therefore, I could not say what stuff does move. I have no opinion or knowledge as to whether or not there was ever a shipment of crude sulphur locally between Appleton, Wisconsin, and either Kansas City or East St. Louis. I would not imagine [fol. 1351] that there would be any movement, but I don't know. That is very likely based on the fact that there is no production of crude sulphur in the vicinity of either of those cities. If I were asked offhand, I would say that there was no movement, but I have no exact knowledge of it (Tr. 5798-5799-5800).

Referring to Exhibit A-258, relating to cotton seed products, cake, meal and hulls, I could not state whether there is any movement from either Kansas City or St. Louis to Chicago locally of those products. There is no cotton produced at St. Louis. I don't know about Kansas City.

Mr. Muckley: I will tell you there is not.

The Witness (continuing): I don't imagine there is any movement of cotton seed products or cotton products locally to Chicago from those points. The local rate that I have used in that rate prorate must be a commodity rate because I note the tariff naming the class rates between East St. Louis and Chicago is not on this sheet (Tr. 5800-5801).

Sometimes cotton seed takes grain products rates in some tariffs. I presume there would be grain products

rates under which there is no movement of cotton seed, although they have rates and they are prepared to handle if there is any offered. I have heard of paper rates before.

I have only the information which I gathered when helping work up these figures as to the nature of the Chicago Warehouse & Terminal Company or Terminal Company of Chicago. I know that the Merchants Lighterage Company in Chicago is these boats that run around here. I know generally what is involved in this trap car service. I don't know anything about why these methods of getting less than carload freight to or from our freight station were established. I just know that they are in effect. I have no knowledge as to whether or not the carriers in Chicago [fol. 1352] could take their L. C. L. freight and deliver all of it at their local stations if they did not want to use any of these agencies. All I know is that this system is used today. I don't know why it is used. I do not have anything to do or ever see any correspondence relating to why these were established. All I know is that we found these payments were being made daily (Tr. 5802-5803).

In my Exhibit A-252 I made a class prorate using on the one hand in Western Trunk Line Territory certain rates proposed in Ex Parte 87 and on the other hand certain rates proposed by an Examiner in Docket 13535, the General Southwestern Rate Case. I have no knowledge as to the nature of the proposals in Ex Parte 87 as to the new class rates except we got these proposed rates out of the statements and one thing and another that were prepared. I do not know whether they were proposed by the carriers or the Commission. I have no knowledge about it at all. I haven't any knowledge of the General Southwestern Rate Case or the rates proposed by the Examiner in that case (Tr. 5803-5804).

I don't know as to whether the class rates proposed in the General Southwestern Rate Case are in effect commodity rates to take the place of a large number of commodity rates and actually move heavy traffic. If those rates were published as class rates and you used a prorate you would use the rates defined as class rates whether they were used to move commodities or something else. You could not tell by looking at the tariff. You would simply

use whatever the rate was. Referring to the statement used here the effect would be to make a rate prorate using the class rates versus the commodity rates, unless the class rates north were established similarly. I know so little about that rate situation that I have no opinion to express on it. If the Commission knows about it it is unnecessary to ask [fol. 1353] me to state it. All I know is the rates were furnished to me on these statements and I know nothing about why they were proposed or whether they were going into effect. I just used those figures we found in those exhibits. I would have analyzed the rates on both sides before I would be able to give an opinion. We make a rate prorate using class rates versus commodity rates if we have no other basis. Sometimes that is done. It would not be fair in making divisions (Tr. 5804-5805-5806).

Attorney Muckley here asked the witness whether any machinery moves from Waterloo, Iowa, to Texas. The Examiner said machinery was taken out of the exhibit and Attorney Towner stated that the tonnage statements would show whether there was a movement (Tr. 5806-5807).

The following is quoted verbatim from the transcript of testimony:

Exam. Disque: Mr. Outlaw, am I to understand from your testimony about the Chicago Terminal Lines that the Southwestern Lines who are performing those services are not compelled to perform them.

Mr. Outlaw: No, Mr. Examiner, I suppose they do. We are not complaining of it or chargin*f* it as any ground for increased divisions here. These questions might be largely legal, but everybody knows trap car service and all of these extra delivery services are things they do not have to do. It is to build up business and for competitive reasons.

Exam. Disque: Something like the tap lines.

Mr. Outlaw: Yes.

Mr. Muckley: I don't agree with that. I don't think the situation is similar to the tap lines at all. There is a transportation service there that it is not necessary to render (Tr. 5707-5708).

[fol. 1354] S. H. GILLETTE was thereupon recalled as a witness and testified as follows:

Direct examination:

My testimony deals with the territory north of Chicago from which originally arbitraries were applied over the rate structure from Chicago and Milwaukee, comprising the so-called Milwaukee Group, Fox River Group and territory in Wisconsin and Michigan north thereof. The present division so far as my knowledge goes was fixed 40 or 35 years ago and at a time when there were substantial arbitraries over the Chicago-Milwaukee rate structures. The divisions as fixed at that time accord the lines south of Missouri River gateways and St. Louis, Chicago or Milwaukee revenue, namely: Milwaukee revenue in connection with Texas traffic and Chicago revenue in connection with Oklahoma, Arkansas, etc. (Tr. 5808).

Subsequently radical changes have been made in the rate adjustment between this territory and the Southwest resulting in a very material reduction in the arbitraries and in many cases the arbitraries have been wiped out entirely from certain Fox River territory on various commodities. During all this readjustment in rate structures, no change has been made in the original division basis under which the lines south of Missouri River and St. Louis gateways still receive their established percents of whatever rates are in effect from Milwaukee and Chicago as the case may be. I have three exhibits which I would like to introduce at this time consisting of 12, 6 and 5 pages respectively, covering the most important commodities which move in volume and which we believe are typical of the general division situation. Page 1 of Exhibit No. A-265 covers cheese from Green Bay to Texas common points, routed via East St. Louis. Cheese is one of the heaviest commodities moving from Wisconsin to Southwestern territory. Wisconsin [fol. 1355] ranks first in the cheese production of all states in the union. This comprises from 75 to 80 per cent of all cheese produced in the United States (Tr. 5808-5809).

The divisions on cheese clearly demonstrate the unfairness of some of the arbitrary provisions in a divisional structure between the Western Trunk Lines and the Southwestern Lines. The Southwestern Lines require that the

earnings south of St. Louis shall be not less than the earnings south of St. Louis on Milwaukee Traffic. Pages 1 and 2 of this exhibit have been prepared to illustrate the effect of this provision. One on cheese from Green Bay, which is a large concentrating point, and the one from Gillett, Wisconsin, which is representative of a large manufacturing district. The present rate on cheese from Green Bay to Texas common points is $1.55. There is no commodity rate in effect from Milwaukee. The class rate applicable on cheese from Milwaukee is $1.76½. The divisions on Milwaukee allow the lines north of St. Louis 32 per cent and south of St. Louis 68 per cent. I mean East St. Louis. That should read East St. Louis (Tr. 5809-5810).

68 per cent of the through Milwaukee rate of $1.76½ results in earnings south of St. Louis of $1.20 which becomes a minimum insofar as the lines south of St. Louis are concerned on any traffic originating in Wisconsin north of Milwaukee. Deducting $1.20 from the through rate from Green Bay of $1.55 there is left to the lines north of St. Louis but 35 cents, where as had the shipment originated at Milwaukee the earnings north of St. Louis would have been 56½ cents. In my opinion this is simply a trick division basis. That should be East St. Louis instead of St. Louis. What I particularly desire to call to your attention in connection with this exhibit is the fact that the lines south of St. Louis are not basing their earnings on the rate which is moving the traffic but their earnings are based on a class [fol. 1356] rate of 21½ cents higher than the commodity rate which is actually applied to the traffic. Any provision that results in a group of lines taking for their earnings a percentage of a rate different from that on which the business is handled, is obviously unfair (Tr. 5811).

In this particular illustration the lines north of St. Louis are performing 112 miles more service than if the business had actually originated at Milwaukee but are earning 21½ cents less for the additional service from Green Bay than they would earn had the business originated at Milwaukee, thereby requiring a lesser service to the extent of 113 miles. I am not positive, but I think the through rates are Commission made rates. I do not remember whether before

the rates were reduced the rates from Milwaukee were higher than the rates from the cheese producing points.

Mr. Towner: Mr. Gray says the answer to your inquiry is yes. Do you want that on the record?

Mr. Burg: They were higher?

Mr. Towner: Yes, he said they were higher.

The Witness (continuing): This anomaly results from the requirement of the lines south of St. Louis that they shall be allowed divisions out of a rate other than that on which the traffic is actually moving (Tr. 5811-5812).

The same situation that has been covered from Green Bay via St. Louis is also shown in connection with cheese from Gillette, Wisconsin, to Texas common points, via Kansas City, as shown on page 3 of this exhibit. Here the traffic is moving under a commodity rate of $1.60, whereas the basis from Milwaukee is the class rate of $1.76½. The lines south of Kansas City demand and take their percentage of the Milwaukee rate of $1.23½. This, notwtihstanding the fact that the class rate from Milwaukee has no bearing whatsoever on the movement of the traffic. In this in- [fol. 1357] stance the lines north of Kansas City perform 170 miles more service than had the business originated at Milwaukee, but for that 170 miles additional service they receive 16½ cents less per 100 pounds than if the business had originated locally at Milwaukee. These are the regularly established standard divisions, the merchandise divisions. It does not require much proof to establish the premise that the lines north of Kansas City are entitled for the greater service from the producing territory north of Milwaukee, to more revenue than they would receive on business from Milwaukee and yet under this arbitrary demand of the Southwestern Lines this and the previous exhibit on shipments from Green Bay clearly demonstrates that the northern lines for the greater haul receive less money than they do for the shorter haul (Tr. 5813-5814).

As the absolute minimum the northern lines should not receive less than the Milwaukee division of the rate on which the business is moving. This is unfair to the northern lines as it gives no recognition of the additional service north of Milwaukee, but even with this provision in effect in the case of the shipment from Gillett, the northern lines would

have earned 11½ cents more north of Kansas City than accrued to them under this arbitrary requirement of the Southwestern carriers.

In order that this division basis may be verified, reference is given to Southwestern Lines Division Sheet 40, Page 34, Item 320. On page 3, detailed information is given with respect to the division of rates on newsprint paper from Appleton to Texas common points, which carriers an arbitrary over Milwaukee. The same in connection with newsprint paper from Quinnesec, Michigan as shown on page 4, and agricultural implements shown on page 5 from Fond du Lac, Wisconsin, to Texas common points. Also potatoes from Escanaba to Texas Common points on page 6, refrigerators from Rhinelander, Wiscon- [fol. 1358] sin, to Texas common points on page 7, agricultural implements from Oshkosh to Texas common points on page 8, matches from Oshkosh to Texas common points on Page 9. The latter commodities carry varying arbitraries over Milwaukee rates (Tr. 5814-5815).

On page 10, I have shown the divisions on automobiles, which comprises a very substantial movement to Texas common points, showing the divisions east and west of Kansas City. It will be noted that the lines north of Kansas City receive 30 per cent of the through rate but perform 42.3 per cent of the service and receive 63½ per cent of the local rate as compared with the Southwestern Lines revenue of 92.1 per cent of the local rate west of Kansas City. Page 11, automobiles from Milwaukee give practically the same result with the exception of the increased service east of Kansas City which is 44 per cent as compared with 30 per cent of the revenue. Page 12, newsprint pap*g*e, Rhinelander, Wisconsin, to Texas common points, via Kansas City. For an additional service representing 231 miles the arbitrary is but 4 cents over the through rate from Milwaukee to Texas common points. I might add that these paper rates were all fixed by the Commission. The Nash and Ford automobile companies are at Milwaukee (Tr. 5815).

This represents an increase of 18.8 per cent in the revenue over what the lines north of Kansas City receive on traffic from Milwaukee, while our service over Milwaukee is increased 45 per cent. Further, the lines north of Kansas City receive 79 per cent of the local rate while the lines

south of Kansas City receive 95.6 per cent of the local rate, their service being constant on traffic both from Milwaukee and Rhinelander.

The statement described by the witness was thereupon offered in evidence as Exhibit A-265 (Tr. 5815-5816).

[fol. 1359] (The statement described by the witness was thereupon received in evidence as Exhibit A-265.)

[fol. 1360] My Exhibit No. A-266 consisting of 6 pages, covers rates and divisions on cheese, newsprint paper and canned goods from Fox River territory to Oklahoma and Arkansas. The division basis on Oklahoma and Arkansas provides that the lines south of St. Louis and Missouri River gateways receive their established percentage of the Chicago rate. Particular attention is called to Page 2 of this exhibit covering the rate and divisions on newsprint paper from Appleton, Wisconsin to Tulsa, Oklahoma via Kansas City. It will be noted that the Chicago rate applies from Appleton out of which the lines north of Kansas City receive 44 percent both to Chicago and Appleton, and receive no additional revenue whatever for the additional haul (Tr. 5816).

In other words, the lines north of Kansas City perform 70.4 per cent of the service and receive 44 per cent of the rate while the lines south of Kansas City perform 29.6 per cent of the service and receive 56 per cent of the revenue. It will be noted that the service of the lines east of Kansas City is increased 35.4 per cent over Chicago with no additional revenue whatever. Identically the same situation exists in connection with canned goods from Sheboygan, Wisconsin to Tulsa, Oklahoma as shown on page 2.

The statement described by the witness was thereupon offered in evidence as Exhibit A-266 (Tr. 5817).

(The statement described by the witness was thereupon received in evidence as Exhibit A-266.)

[fol. 1361] My Exhibit No. A-267 consists of 5 pages and covers rates and divisions on petroleum oil, hides, cotton linters and peaches, from Texas common points, to Fox River territory, the stations named on that exhibit being located in Fox River territory. Particular attention is called to the fact that the lines south of Kansas City receive 99.7 per cent of the local rate and the lines north of Kansas

City receive 42.4 per cent of the local rate. The lines from Kansas City to Green Bay as an illustration, perform 54.8 per cent of the service and receive 37.5 per cent of the revenue (Tr. 5817).

Particular attention is called to page 3, rate and divisions on hides from Texas common points to Sheboygan, Wisconsin via East St. Louis, in connection with which there is a substantial movement. As an illustration, we handled into Sheboygan 100 carloads of green hides from Texas common points during the month of June 1924. Here again the Milwaukee rate is extended to Sheboygan with no additional compensation to the lines north of East St. Louis for the additional service performed, the lines north of East St. Louis receiving 22 per cent of the rate and performing 34.1 per cent of the service. In other words, the haul to Sheboygan is increased 11½ per cent over Milwaukee with no increase in revenue. I think the illustrations which I have given in the three exhibits described in the foregoing, are typical of the general division situation as it exists today between Southwestern territory and our so-called Fox River Group and territory north thereof.

The statement described by the witness was thereupon offered in evidence as Exhibit A-267 (Tr. 5818).

(The statement described by the witness was thereupon received in evidence as Exhibit A-267.)

[fol. 1362] As to divisions up in the territory north of Chicago I do not think that we are entitled to the same basis relatively as applies to Springfield and Des Moines and Chicago. I think there ought to be a line of percentages arranged from that territory to Texas and not have the division basis provided that the Southwestern Lines are to receive a certain amount of some base point rate, because the base point rate as a rule does not change as often as it does in these territories that carry these arbitraries. Now, I am speaking here to the general division basis. We have a special division basis through our Iowa junctions and Kansas City, in connection only with certain routes which is 40.5 per cent of the Chicago-Milwaukee-Texas common point rates north of Kansas City, 40.5 per cent, but that generally does not apply in connection with all lines. That seems to be a very fair basis of divisions through the Kansas City gateway (Tr. 5819).

Cross-examination:

We have no compound divisions that I know of. Take through the Chicago gateway, we had a special division basis originally with one or two lines.

It was supposed to allow the lines north of Chicago 15 per cent of the through rate. That is the Milwaukee rate plus any arbitraries over. That was afterwards extended to practically all lines through the East St. Louis gateway. But the division sheet rates the Southwestern Lines will receive will be 85 per cent of the Milwaukee rate south of Chicago, so that if you get a higher rate from Milwaukee to this territory than you have got from the territory north, then we only get 15 per cent. They get 85 per cent of that higher rate from Milwaukee. We do not get but 15 per cent of the rate that moves the traffic (Tr. 5819-5820).

[fol. 1363] By Exam. Disque:

Q. Well, everybody looks on Illinois as an eastern state and a good deal of traffic moves up through East St. Louis in Illinois to Chicago. Your traffic will move up through Kansas City and Omaha and up into northern Wisconsin. Now, do you contend that you are entitled to the same basis of division as applies to and from Chicago, mile for mile? Do you think we should average all of the Western Trunk Line territory and do you think we should fix different bases of divisions in various parts of Western Trunk Line territory?

A. I think we should group this Western Trunk Line territory.

The Witness (continuing): I think we should put the divisions on some bases reflecting the original basis which carried a substantial set of arbitraries over the Milwaukee rates. We have an arbitrary north of Chicago or north of Milwaukee and divide the balance of the Milwaukee percents. That is the principle, but in working it out I would throw it into per cents in establishing these groups north of Chicago, so that when the rates change as to base points they automatically change to arbitrary territory.

What I mean is: Take the bases originally where there was a substantial set of arbitraries over the Milwaukee rate and get the percentage divisions that would apply to

the rates at that tme and use that as the yard stick at that time by providing established percents from all that territory to be fixed and apply to whatever adjustment of rates is to be made. That is the only proper way, in my opinion, to adjust these divisions, because they are continully being changed, either from the arbitrary territory or from the base point, Chicago or Milwaukee, which should necessitate a change simultaneously in your division structure, either one side or the other (Tr. 5820-5821).

[fol. 1364] I would take the so-called Milwaukee group in the first place. Not necessarily Milwaukee rates to any particular territory, but what is known as the Milwaukee group. That group runs all the way from ten miles, I should say to 20 miles north of Milwaukee. Then take an imaginary line just north of Milwaukee right across and north of Madison to the Mississippi River. Then start in just north of Green Bay. Now, that is the southern boundary of what is called the Fox River group. I think it would be a good idea for us to all work out the groups and tell the Commission to fill in the figures and submit some kind of a concrete proposition, if we could reach an agreement. I don't know whether it could be done or not. But think it would be a solution of this difficulty (Tr. 5822).

I don't say that there should be special divisions on commodities. It would be pretty hard to say about that, to establish a percentage basis to apply on everything. It would depend entirely on the construction of your rates. There are all sorts of complications and angles to these rate structures, and often one line or set of lines at one side of the breaking point is entitled to a greater revenue than they would be under ordinary conditions or under certain staple class rates, you might say. I don't know what those conditions are that would entitle the one set of lines to more revenue. I would have to have the cases before me to know. I can not make a general statement on that proposition. I can not mention any condition that would entitle one line to more revenue than another without knowing the varying conditions which would develop in connection with the adjustment of commodity rates (Tr. 5822-5823-5824).

By Mr. Muckley:

Q. Did you hear Mr. Schmidt testify?
A. Only the beginning of his testimony.

Q. Did you hear him talking about compounding divisions over Thebes and St. Louis?

[fol. 1365] A. I don't think so. I don't think I was here at the time.

Q. Was he speaking for you?

A. I don't know.

Mr. Towner: I object to that. It does not make any difference who you are speaking for.

Mr. Muckley: Oh, it might.

Mr. Towner: That is an unfair question, Mr. Muckley (Tr. 5824).

It depends upon what the compounding division is whether or not I think it is unfair. I can not say off hand. There is no compounding of divisions for our road unless there is some additional service involved.

Referring to the divisions on newsprint paper from Appleton to Tulsa on page 2 of Exhibit A-266 and from Appleton to Texas common points on page 3 of exhibit A-265. It does not look out of line that we should get 44 per cent on the Oklahoma business and 32 per cent on the Texas business. As a rule you have got a much shorter haul to Oklahoma than you have to Texas. It depends altogether on the spread of the rates. What I am doing is setting these divisions against the actual results of these rates as they exist today. I think we should get a lower percentage of the higher rates when it develops that the lines north of Kansas City receive materially less revenue in proportion to their local structure than the Southwestern Lines do. I think it is proper that a line for the same service should get a lower percentage out of a higher rate, as shown on these two exhibits (Tr. 5826-5826).

While exhibit A-263, pages 2, 3, 4, 5 and 6, showing rates and divisions on various commodities to Texas points show a percent north of Kansas City of 30 per cent; if any of that traffic originating or terminating on our line were interchanged at Des Mines, Iowa, the total allowance north of Kansas City is 40.5 per cent.

[fol. 1366] The showings on those pages are not in error to the extent of all that business. Those exhibits are assumed to portray the general division bases. This division of 40.5 per cent is a specific division accorded by one

line north of Kansas City when they get the haul south and in connection with through lines south of Kansas City. With any other routes, this is the division basis right here (Tr. 5827).

On southbound business a considerable portion of the business of our line is interchanged at Des Moines. We only get 30 per cent to Des Moines when it goes via certain routes. I would not say that that is a substantial part of our business beyond Kansas City. My statement refers particularly to the interchange at Des Moines. When you get to Kansas City, there is not the same substantial movement of traffic that travels over these particular lines we have got this division basis on. I would say off hand the preponderance of traffic was the other way when you reach Kansas City. So, therefore, that division basis of 30 per cent to Des Moines would not apply. Of all the business we originate and deliver on the Kansas City lines, there is a substantial portion of that business interchanged at Des Moines. I would not say the 40.5 per cent basis would apply to a substantial portion. I would not know the exact percentage. There is a substantial interchange at Des Moines, but that same relation does not carry on beyond Kansas City. The lines north of Kansas City receive 40.5 percent instead of 30 percent as shown on the exhibit. Only in connection with Chicago, Rock Island and the Chicago Great Western. I don't know what lines north of Des Moines get this basis other than the Chicago North Western. I don't know whether the Milwaukee still have it or not (Tr. 5828-5829).

[fol. 1367] On traffic which we interchange at Chicago, destined to and from Texas common points, the Chicago North Western gets 15 per cent of the Milwaukee rate for service north of Chicago, plus an arbitrary. Here is the catch on that. The division sheet reads that the Southwestern Lines will receive 85 per cent of the Milwaukee rate. The Southwestern Lines get theirs first. I don't know how the Milwaukee rate division is handled with other lines. Our division sheet reads 85 per cent south or west of Chicago of the Milwaukee rate. I don't know how it is handled. According to our Accounting Department, the Southwestern Lines are getting 85 per cent of the Milwaukee rate. That is my understanding from our auditors (Tr. 5829-30).

Here followed a discussion as to whether the witness's last statement was correct. Attorney Outlaw referred to Mr. Balch's exhibits and Attorney Towner replied that he thought everything that had been referred to was in the exhibits. There followed a discussion off the record which was followed by the following:

By Mr. Burg:

Q. What were the two lines south of Kansas City?
A. M-K-T and Kansas City Southern for their own lines and connections.
Q. Did the Frisco participate?
A. No, sir.
Q. Sure about that?
A. Not that I know of (Tr. 5830-5831).

In Exhibit A-265, in order to determine the percentage of service performed by the lines north of Kansas City and the lines south of Kansas City, I have used the average mileage to Kansas City from Texas common points and the short line mileage from Kansas City to Gillette and Milwaukee, Wisconsin. That was my instructions, to use the short line mileage north of Kansas City and the mileages south of Kansas City that are shown in these previous ex-[fol. 1368] hibits which I understand were the average of the—I received those instructions from Mr. Towner (Tr. 5831-5832).

Referring to the rate on cheese from Gillette, Wisconsin, to Texas common points of $1.60, shown on page 2 of Exhibit A-265, I can not say off hand without referring to the tariff, whether or not that rate applies from a group or from a single point, Gillette, but I am inclined to think that there are some groups in there. I am not positive. I don't know whether that is a large group or a small group. It was my instruction in getting up the exhibit that a representative point as to mileage be chosen. I think Gillette is representative as to mileage. I don't know positively. I don't know whether there is a group or not. Taking Milwaukee, Wisconsin, there is a small group in there. I do not know without getting the tariff. I can not define those groups. I think that my showing as to the percentage of service performed by the Western Trunk Lines in Exhibit A-265 is proper and representative (Tr. 5832-5833).

It frequently occurs that the rate from Milwaukee is higher than from points beyond. I picked out here commodities that moved in volume. I do not know in what percentage of the cases the rate from Milwaukee is higher than from these producing points beyond. I can not off hand name one commodity other than cheese on which the rate from Milwaukee is higher than from a further distant point to Texas common points or Oklahoma. I don't know whether I can think of any (Tr. 5834).

I don't know whether or not it is a fact that the question of dividing the rate on cheese shown on Exhibit A-265 was placed with the Southwestern Freight Bureau for consideration. We have got so many suggestions on that docket with the Southwestern lines that I could not tell you whether it is on the docket or not. I think the rate from Green Bay was fixed by the Commission.

(Attorney Towner here said that there is no cheese commodity rate from Milwaukee.)

[fol. 1369] Apparently nothing but the class rates apply on cheese from Milwaukee (Tr. 5834-5835).

I will try to get information as to whether I can find any rates on any moving commodity in any volume from Milwaukee to Texas common points or Oklahoma that is higher than a rate from a more distant point in Wisconsin.

Attorney Towner here said that if the witness would look this up he would advise everybody by letter, giving a list of them (Tr. 5835-6).

J. A. Behrle was recalled as a witness and testified as follows:

Direct examination:

In Mr. Parson's testimony yesterday reference was made to certain corrections in exhibit A-60, and in order that the record may be straight on this point I would like to introduce an exhibit correcting the tonnage and revenue figures appearing on page 7 of Exhibit A 60 and having reference to the movement of oil from group B as set forth in the second group on that page (Tr. 5836).

Oil group B is in Oklahoma.

(The statement described by the witness was thereupon received in evidence as amendment to exhibit A 60.)
[fol. 1370] Beginning with page 5568 of the transcript there appears a discussion of the divisions on lumber via Kansas City. The first exhibit, number A-232 is a comparison of the divisions on lumber with merchandise percentages. There also appears on this exhibit a column head, "Average miles to Kansas City, Mo." below which are shown the figures "808". According to the testimony this is the average distance to Kansas City. Exhibit number A-232 does not show the points of origin, but refers to Exhibit number A-233 and by reference to the latter it will be found that the average distance from all points shown in this exhibit is 808 miles.

It should be clearly shown of record that this is the average of all mileages shown on Exhibit Number A-233 and that it is neither the short line mileage nor the weighted mileage. The short line mileages in exhibit number A-233 average 706.9 miles. The short line distance in connection with the route shown via the Kansas City Southern Railway averages 694 miles. These facts are important because exhibit A-232 actually makes comparison of mileages via all routes from the points shown to Kansas City with the actual short line distances from Kansas City (Tr. 5837-5838).

Many of the routes shown in exhibit number A-233 are indirect. The most pronounced case appears on page 3 where it is shown that the short-line distance from Colfax, Louisiana, is 657 miles while the long line is 1115 miles or 458 miles in excess of the short line mileage. Numerous other illustrations of round-about routes could be cited. As for instance, the mileages shown on page 2 from Vidalia to Kansas City which are short line 734, long line 1082 and [fol. 1371] on page 7 from Houghton, Louisiana to Kansas City, short line 574, long line 1002. On sheet 2 of exhibit number A-232 is shown a mileage of 451 miles from Kansas City to Chicago. This, it should be borne in mind, is the distance via the Atchison, Topeka & Santa Fe Railway. According to our June, 1924 tonnage figures presented in this case, the average mileage Kansas City to Chicago was 496 miles as against 661 miles south of Kansas City.

Southwestern Lines' exhibit number A-122 is a statement of the forest products originating on short-lines connecting with Southwestern lines and moving to and through Western Trunk Lines territory. In showing the car miles, ton miles and the average haul, revenue per ton mile and revenue per car mile, the mileage and revenue of the initial lines has been eliminated. Therefore, this statment is complete only in as far as it shows the revenue of the Western Trunk Lines, the Southwestern Lines and their connections. Nowhere in this statement is there shown the haul of the short lines and it, therefore, does not portray a true picture of the situation. Presumably this exhibit is intended to convey the inference that the Western Trunk Lines are receiving considerably in excess of a mileage prorate (Tr. 5838-5839).

To show the other side of the picture, utilizing the material on hand, we have prepared a statement in which we have made a division of revenue north and south of Kansas City using the ton mileage shown in exhibit number A-122. The net result of this computation is that for an average of 381 miles north of Kansas City the Western Trunk Lines receive 6.73 mills per ton mile while for an average haul of 699 miles south of Kansas City the Southwestern lines receive an earning of 8.32 mills per ton mile. In other words, the ton mile earnings are approximately the same for both Western Trunk and Southwestern lines, but the average haul of the Southwestern lines is 183 per cent of that of the Western Trunk Lines (Tr. 5839).

[fol. 1372] I am talking about all of our lumber via Kansas City. I am familiar with the Southwestern blanket. Sometimes the rate for lumber is blanketed at the destination end. The Chicago rates sometimes apply for points other than Chicago and St. Paul rates sometimes apply for points other than St. Paul. As to whether rates are blanketed or not might depend a lot on the definition of the term "blanket". I have not compared the blankets in the north with those in the south to tell whether those in the north are smaller. Without comparing these blankets I could not tell whether they are larger or as large as the Southwestern blanket (Tr. 5840-5841).

The statement heretofore described by the witness was thereupon offered in evidence as Exhibit A-268 (Tr. 5842).

(The Exhibit described by the witness was thereupon received in evidence as Exhibit A-268.)

[fol. 1373] Where the distances are approximately equal as in the case of lumber from Oklahoma where the Western Trunk Line mileage is 401 miles and the Southwestern mileage is 398 miles, the Western Trunk Lines receive 6.31 mills per ton mile while the Southwestern lines receive 10.08 mills per ton mile. In other words, where the length of haul is the same the earnings of the Southwestern lines exceed those of the Western Trunk Lines by 59.7 per cent. Lest it be stated that this is an improper showing because it does not include the mileage of the originating line, it may be stated that in the case of lumber originating at Oklahoma points on trunk lines destined to Illinois, Iowa, Missouri and Wisconsin where the average haul ot fhe Western Trunk Lines is 308 miles as against the average haul of 330 miles of Southwestern lines the ton mile earnings of Southwestern lines are 142.8 per cent of those of Western Trunk Lines. I direct attention to this situation in order that the long haul of the Southwestern lines be not overlooked. According to the Southwestern Lines' figures, a lot of lumber moves from Oklahoma (Tr. 5842-3).

In connection with the remarks appearing on page 5581 of the transcript, I wish to introduce an exhibit showing the number of tons of forest products handled by the Kansas City Southern Railway during the years 1916 to 1924 inclusive. There is also shown the percentage relation of forest products to total tonnage.

The statement described by the witness was thereupon offered in evidence as Exhibit A-269 (Tr. 5843).

(The statement described by the witness was thereupon received in evidence as Exhibit A-269.)

[fol. 1374] The witness, continuing: As the inference might be drawn from pages 5538 and 5539 of the transcript that the present divisions on oil from Mid-Continent fields via Kansas City to Western Trunk Line territory are not the result of arbitraries, I wish to place in the record copies of the official record of the Western Trunk Line committee bearing on this point. It will be noted that on October 5, 1915, the executive officers referred the question

of the division of rates established by the commission in the Mid-Continent cases, I. C. C. Docket 6129, 36 I. C. C. 109, to the Chairman of the Western Trunk Line Committee. On June 20, 1916, the question was again brought up and the Chairman instructed to confer with the absentees and announce the decision, if satisfactory to them. On July 24, 1916, another meeting was held at which the Chairman was instructed to arrange for a conference with the executive officers of the Kansas City Southern Railway, the Missouri-Kansas-Texas and the St. Louis Francisco Railway. On September 29, 1916 the committee consisting of the three lines mentioned, and the chairman, reported that with the transfer of Tulsa, West Tulsa and Sand Springs, Oklahoma from Group 1 to Group 2, the divisions proposed by the chairman were satisfactory. On October 6, 1916 the proposition was submitted for mail declaration and at meeting on November 16th, 1916 the question was referred to the chairman with authority to establish the divisions effective October 1, 1916 (Tr. 5844).

The Western Trunk Line record contains a letter from the M. K. T. Railway dated August 7, 1916 stating that at no time had that line objected to the basis which had been suggested, the position of the M. K. T. being that before the divisions became operative they should be ratified by the Western Trunk Line and Southwestern Tariff Committees. They advanced no objection to the divisions proposed by the Chairman and stated that they were willing to leave their interests in his hands. This record should show clearly that the division on oil from Mid-Continent fields [fol. 1375] via Kansas City to Western Trunk Line territory were specifically agreed to by all lines at interest.

The statement described by the witness was thereupon offered in evidence as Exhibit A-270 (Tr. 5845).

(The statement described by the witness was thereupon received in evidence as Exhibit A-270.)

[fol. 1376] The witness, continuing: The exhibits of Mr. S. G. Reed, numbers 186 to 195 inclusive, deal with the question of rate levels in Southwestern and Western Trunk Line territory. Exhibits numbers 186 to 189,—194 and 195 contain class rate comparisons. The rates both north and

south are now in the process of revision and in order that the record may be more complete on the question of class rate relationships, we have prepared an exhibit which we desire to introduce as A-271.

The following is quoted verbatim from the transcript of the testimony:

Mr. Muckley: What is this? Proposed rates?
Mr. Towner: Yes.
Mr. Muckley: Mr. Examiner, we object to this. I have not seen the exhibit yet, but it is a statement showing proposed rates. We object to it because the rates are not in effect. We do not know what rates will be in effect. You cannot put in evidence your rates that you go and pick out of the air some place. We want rates that are moving the traffic, or rates that have been fixed by the commission.

Here followed a lengthy discussion as to the admissibility of the statement referred to as Exhibit A-271, during the course of which Attorney Towner said that the purpose of the exhibit was to show that the atmosphere created by similar exhibits put in by Southwestern Lines was not correct. To which Attorney Muckley replied that the Southwestern Lines had not put in an exhibit similar to this one, and subsequently Attorney Muckley made the further objection to the exhibit offered, because it was a self serving statement to which Attorney Towner said—"that is a good objection." The examiner thereupon sustained the objection to the statement and refused to accept it as an exhibit in the proceeding (Tr. 5846-5854).

[fol. 1377] The witness, continuing: Following up my statement with reference to the class rate situation, we deem it important that the commission have readily available its report in docket 14150, Corporation Commission of Oklahoma versus Aberdeen & Southern Railway, 98 I. C. C. 183, decided May 6, 1925, in which rates on cottonseed products were prescribed.

Mr. Towner: We will offer that as exhibit A-271 then, Mr. Examiner.

Exam. Disque: It will be received (Tr. 5855).

(The statement described by the witness was thereupon received in evidence as Exhibit A-271.)

[fol. 1378] The Witness, continuing: We direct attention to this expression of the commission on page 235 as indicative of the rapidly changing conditions in Southwestern and Western Trunk Line rate territories: "There appears to be no good reason for not extending to all points in this destination territory the distance scales of rates hereinbefore prescribed on these commodities between points in the Southwest. It is true that the levels of rates in Illinois and certain portions of western Trunk Line territory are as a rule somewhat lower than in the Southwest, and, particularly on short haul traffic, the differences are justified by varying degrees of traffic density; but where, as here, the traffic density on all class I carriers is comparatively heavy and the hauls are as long as those to these destinations, there is ample grounds for disregarding such differences in rate levels." In Mr. Reed's commodity rate comparison eleven selected commodities are used and among this number is brick. We wish to amplify the record with respect to comparisons on brick by submitting two scales of rates recently ordered in by the Interstate Commerce Commission, The first of these is the scale established by the Interstate Commerce Commission in docket 11672, Mason City Brick & Tile Company, versus Director General, et al, decided March 1, 1926. This scale applies from various Iowa points to points in Iowa, Nebraska, South Dakota and Minnesota.

The statement described by the witness was thereupon offered in evidence as Exhibit A-272 (Tr. 5855-5856).

(The statement described by the witness was thereupon received in evidence as Exhibit A-272).

[fol. 1379] The Witness, continuing: The second exhibit shows the scale prescribed on brick in I. C. C. Docket 14617, Southwestern Brick Cases, 107 I. C. C. 681, decided March 9, 1926. These rates apply from Texas, Arkansas, Oklahoma and Kansas to points in those states and to points in Louisiana when to the Mississippi river and to Memphis,

Tennessee, and from points in Texas, Arkansas and Oklahoma to points in Missouri south of the line of the Missouri Pacific from St. Louis to Labaddie; south of the line of the Rock Island to a point west of Holden and south of the M. K. T. to West Line, Missouri.

The statement described by the witness was thereupon offered in evidence as Exhibit A-273 (Tr. 5856-5857).

(The statement described by the witness was thereupon received in evidence as Exhibit A-273.)

[fol. 1380] The Witness, continuing: The division of the commission said:

"In our report and order in the general brick case, rates on common brick in the territory here under consideration for distances up to 150 miles were required to be maintained on the basis of 80 per cent of the contemporaneous rates on articles in the Uniform brick list. Our findings herein must not be understood as modifying that basis." That relates to the Iowa case. I don't know whether common brick takes the full 100 per cent scale for all distances under the Southwestern Brick case. (The witness here said that if Attorney Outlaw said that such was a fact he would accept it. Attorney Outlaw said that that was a fact.) The Commission's decision will speak for itself on that, of course.

The distance that the majority of common brick moves might vary. The common brick scale as I recall it, was intended to apply only to so-called mud brick and later extended to brick made from shale. Now, the higher grades of brick move at the flat rate. I have not any idea as to the volume of the movement as between common and higher grade brick under the Iowa scale. I could not say whether or not the average haul of all brick is under 150 miles. To the extent that common brick might move in Iowa, of course there would be a difference in that rate and the Southwestern scale (Tr. 5858-5859-5860).

With further reference to the matter of rate comparisons in Illinois and Western Trunk Line territory versus the Southwest we have prepared an exhibit showing the rates and divisions on commodities in actual through movement and in connection therewith the local rates to and

from the junctions shown, and the percentage relation of the present division to the local rate.

[fol. 1381] Mr. Towner: We will introduce that as Exhibit A-274 now.

In connection with exhibit A-190 I want to state that the rates on coal from the McAlester, Oklahoma group to Galveston, Texas for 604 miles are $3.65 on lump and $3.04 on slack coal shown in Southwestern Lines tariff number 19-J, F. A. Leland's I. C. C. number 1642. Exhibit A-274 is a rate prorate applying to the through traffic. It applies to Exhibit A-190 introduced by the Southwestern Lines. There are several of that kind. That was Mr. Reed's exhibit (Tr. 5860-5861).

Attorney Towner here stated that the exhibit is in response to every exhibit in which the Southwestern Lines showed rate prorates on the basis of class rates north and south and that this exhibit was designed to show what a rate prorate would be if the rates which actually move the traffic were used. Attorney Outlaw said that the witness was using a commodity rate prorate instead of class rates and Attorney Towner replied that there was not always a commodity rate prorate, that it was a rate prorate of the rates north and south of the junction that would actually move the traffic (Tr. 5861-5862).

The Witness, continuing: The commodities shown in Exhibit A-274 were transported during June 1924. They are the actual moving commodities. The mileages are the short line distances according to the tariffs of the lines that were engaged in these movements. The rates shown as local rates are the rates that would move this traffic in the absence of the present through rates. Distinction is made and indicated whether they are commodity rates or class rates.

[fol. 1382] The statement described by the witness was thereupon offered in evidence as Exhibit A-274 (Tr. 5862-5863).

(The statement described by the witness was thereupon received in evidence as Exhibit A-274.)

[fol. 1383] The Southwestern lines in the testimony of Mr. Stanage on page 5509 and Mr. Trovillion on page 5566, made some reference to the absorption of Mississippi River Bridge tolls at St. Louis and contrasted the earnings of Southwestern lines after making these reductions, with the earnings of lines north of East St. Louis. No deductions were made for terminal expenses incurred by lines north of East St. *St.* Louis and in order that this situation may be clearly before the commission we have prepared an exhibit showing the earnings to lines north and south of East St. Louis on traffic handled by the Chicago & Alton, Chicago & Eastern Illinois, Illinois Central and Wabash between Chicago and the Southwest, before and after the deduction of Mississippi River bridge tolls, switching at East St. Louis and switching at Chicago. Chicago is the only destination. There would be switching at other destinations if there were any other (Tr. 5863-5864).

Here Attorney Roberts made the following objection to the introduction of the statement referred to by the witness:

Mr. Examiner, this certainly is a matter that should have been presented by these complainants when they made their case in chief. They have been treated as complainants all the way throughout, and here is a statistical exhibit that is introduced, that has been withheld until toward the latter part of the hearing, and in rebuttal. In all fairness to the set of carriers that are defendants, this sort of information should have been presented at the beginning and as a part of their case in chief, just as a matter of common fairness. It should have been presented then and not pitched in at the end of the hearing at this time (Tr. 5864).

[fol. 1384] There followed a discussion as to this objection and as to the right of the Western Trunk Lines to introduce this character of evidence. At this station of the proceeding, Attorney Larimore stated that he would ask for another hearing because the Western Trunk Lines had undoubtedly put in all of their case at the present hearing, to which the Examiner said—"As I said yesterday, whatever is not rebuttal you will have a chance to answer yourselves" (Tr. 5865).

The Witness, continuing: This statement also shows the percentage relationship of earnings of the Northern lines versus the earnings of the Southwestern lines. The figures are predicated on the movement of traffic during June, 1924. The four lines mentioned are the short lines between East St. Louis and Chicago; The mileages south of East St. Louis are those of the lines which actually perticipated in this traffic. Substantially all of the traffic handled by these four lines was delivered at Chicago on the rails of the carriers. As a matter of fact out of the total deduction of $15,189 only $312.07 switching was incurred in the interchange of traffic between these four roads at Chicago. The average of the Southwestern lines on the traffic handled was 572 miles while the average north of East St. Louis was 286 miles. In other words, the mileage of the Southwestern lines was just double the mileage of the East St. Louis-Chicago lines (Tr. 5866-5867).

We ask the commission to take into account the longer mileage of the Southwestern lines and the fact that their earnings, gross, without the deduction of terminal charges at East St. Louis were 11.87 mills per ton mile as against the earnings of the East St. Louis-Chicago lines of 9.09 per ton mile. Out of these gross figures, the lines north of East St. Louis absorbed at East St. Louis and at Chicago $15,188 while the Southwestern lines on the same traffic [fol. 1385] absorbed Mississippi River Bridge tolls to the extent of $6,417. As the result of these deductions the ton mile earnings to the lines north of East St. Louis were reduced to 7.29 mills per ton mile, while the Southwestern lines received net earnings of 11.48 mills per ton mile. Stated in other terms, the gross earnings per ton mile of lines north of East St. Louis equaled but 77.3 per cent of the earnings of the Southwestern lines, while the earnings of the Southwestern lines equaled 129.3 per cent of the earnings of the northern lines (Tr. 5867).

[fol. 1386] It does not show any absorption at points of origin, if there were any. After deduction of the Mississippi River bridge tolls, switching at East St. Louis and switching at Chicago, the net earnings per ton mile of the northern line equaled 63.5 per cent of the ton mile earnings of the Southwestern lines while the earnings of the South-

western lines equaled 157.5 per cent of the earnings of the lines north of East St. Louis. The figures which I have given are those applicable to all traffic. The statement shows separately the divisions and earnings on lumber, oil, live stock and other traffic. With respect to the figures on live stock it may be stated that the East St. Louis-Chicago lines make delivery under their own power over the tracks of the Chicago Junction Railway, to the Union Stock Yards at Chicago. Where this traffic is switched by the Chicago Junction Railway for the East St. Louis-Chicago Lines a charge of $12 per car is incurred (Tr. 5868).

We took the revenue up to our line and deducted the bridge toll from the revenue. That is, we took the Southwestern revenue up to East St. Louis and then deducted the bridge toll. All of the cars of lumber received by the Chicago & Alton are in here. I can give the cars if it is desired that I read them. One can see what the Western Trunk Lines absorb and what the Southwestern Lines absorb from the exhibit. All of the lumber of the Chicago & Alton did not move over the bridge from St. Louis. On a part of this lumber we absorbed intermediate switching at East St. Louis. There is no way to tell which part moved over the bridge and which came up the east side except by checking it with the 1924 figures. We cannot check those figures from the exhibit (Tr. 5869-5870).

In the first column we have some lumber there that did not move across the Mississippi River at all at St. Louis. Some of it came at Thebes via the Cotton Belt and the Missouri Pacific. We also have some cars that went to [fol. 1387] Chicago on which we absorb no switching charge. What we did was this: we took the entire movement of the commodities to points in the Chicago switching district and took out the absorptions that were made in Chicago, the payments we made in East St. Louis and the payments that were made by the Southwestern lines both at St. Louis and East St. Louis. In that connection I want to say that the heading in the column headed, "Bridge Tolls absorbed by Southwestern Lines" is not entirely correct, as it also includes the switching at East St. Louis absorbed by the Southwestern lines on southbound business (Tr. 5870-5871).

If we eliminated from those two columns the switching

adsorbed and the bridge tolls absorbed it would not have any effect on the ultimate figures. The switching absorptions more than double the bridge toll absorptions because on a lot of this traffic coming up through East St. Louis we absorb the intermediate switching at East St. Louis and when the traffic comes up at Chicago we absorb the switching up there. I don't know about the Thebes bridge toll. The division is made on East St. Louis. I don't know what expenses the Southwestern Lines have at Thebes (Tr. 5871-5872).

The term gross revenue represents the entire revenue up to East St. Louis and from East St. Louis to Chicago. The net revenue represents the revenue after the deductions of the switching by the East St. Louis-Chicago Lines and the bridge tolls and the intermediate charges by the lines south of East St. Louis. I think I have stated the difference in haul, north and south. I said the average mileage south was 572 miles while the average north was 286 miles, just double (Tr. 5872-5873).

Referring to the last four columns: "Percentage relationship of car mile earnings north versus south", the car mile earnings net the percentage relationship appearing in the last column to the right is the relationship—the first [fol. 1388] figure is the relationship of 25.95 to 16.64, which are the car mile earnings appearing in the fourth principal column from the right. The other figure, 155.9, is the relationship of 25.95 to 16.64. I was referring to the car mile earnings in cents (Tr. 5873-5874).

Exa[illegible] Disque: It is your conclusion then or the element of fact you desire to bring out is that although the haul south of the gateway is more than double the haul north of the gateway, the car mile earnings south are probably 40 per cent greater than those north, isn't that right?

The witness: That may not be the exact relationship, but it is that principle.

The Witness (continuing): It is the relationship between 16 and 25 (Tr. 5874-5875).

This includes all the traffic during the month of June handled by these lines. The Chicago & Alton and The Chicago & Eastern Illinois, the Illinois Central and Wabash

for deliverey at Chicago on those lines and on those lines within the switching district of Chicago. It is confined to traffic moving to and from Chicago and the Chicago switching district exclusively. It is through East St. Louis (Tr. 5875).

The net car mile earnings include the bridge tolls and the switching charges, if any, at East St. Louis. I have deducted absorptions and switching of the carriers north of East St. Louis and I have shown the absorption that the carriers south of East St. Louis have made and have only shown the absorptions in the St. Louis-East St. Louis switching district. I have not shown any absorptions that they made south of St. Louis. I think this is a very fair showing even if it does not include the charges that the Southwestern Lines may have south of St. Louis, because [fol. 1389] on the face of it it shows that the proportions north, even taking into account the conditions which are referred to, are relatively too low (Tr. 5876-5877).

Mr. Towner: Right at this point, Mr. Examiner, if it is competent, I would like to refer all of counsel that were so disturbed about this exhibit to page 5509 of the record, where I was inquiring of one of their witnesses with respect to exactly the same sort of a computation he had made. I directed his attention to the fact he had not shown the Chicago absorptions and he admitted he had not done it and sought to justify himself by saying he did not know they were competent. I call attention to that for two reasons, first, as a justification of the method by which this exhibit was gotten up, and, second, as a justification of the exhibit itself. That is exactly the same sort of evidence we were confronted with the last time.

Referring to the fourth column on Exhibit A-275, on northbound traffic, the lines north of East St. Louis paid the absorptions on the intermediate switching charge at East St. Louis so the Southwestern Lines would have no charge. The M. K. & T. and Frisco should not absorb the charge across the river if the Missouri Pacific handles it to East St. Louis. The $62.15 represents the amount of switching absorbed by the Southwestern Lines on lumber given to the Wabash Railway. If all of that lumber had come up on the east side, the Wabash would absorb all

of it and the Southwestern Lines would not have paid any of it. That did not happen. There was $62 of expenses borne by the Southwestern lines, which would represent the M. K. & T. and the Frisco. They would meet the Southwestern Lines to interchange at St. Louis. $62.15 is the total absorption of those two lines on deliveries to the Wabash for that [fol. 1390] month, according to my figures (Tr. 5878-5879-5880).

The intermediate lines, the Terminal Railroad Association at East St. Louis, or the connections of the Chicago & Alton, Chicago & Eastern Illinois, Illinois Central and Wabash at Chicago perform the switching service referred to in the column "Switching absorbed by East St. Louis-Chicago Lines". We have all kinds of lines at Chicago. They are not mostly Western Trunk Lines. They might be eastern lines. I don't know whether we kept the detailed figures as to what lines we paid this switching to. We checked the through billing to get those absorptions (Tr. 5880-5881).

On all lumber crossing the river at St. Louis the division is made at East St. Louis and in that case, if it crossed the Mississippi River from St. Louis to East St. Louis, the Southwestern Lines would absorb the bridge toll. That is true whether it went to Chicago or not. It if went to Springfield we might have other absorptions. We would not have these that are shown. These are at Chicago. But the Southwestern Lines would have the same absorptions as shown on the exhibit if the traffic was handled that way (Tr. 5881-5882-5883).

The Southwestern Lines made deductions of the tap lines allowances and prorated the balance in their exhibits. That is not what I am doing here. I am confining this to the actual switching charges. If we were to take out the charges we make to other lines, including short lines around the district, that receive their percentage of the rate we would make a different showing. That is why I say I have been fair about it (Tr. 5883).

Although we do not have Chicago switching absorptions at Springfield, we have Springfield switching absorptions there. We might absorb the switching charge of a Springfield line (Tr. 5883).

[fol. 1391] Attorney Muckley here requested that the Western Trunk Lines furnish a statement showing the amount of absorptions made in the fourth column on Exhibit A-275, and to what lines they were paid. Attorney Towner agreed to this if the data was still obtainable (Tr. 5884).

The Witness (continuing): Exhibit A-275 would include the actual revenue. I think the corrections made in Exhibit A-60 applied to the movement via Kansas City only (Tr. 5884).

The Wabash is a member line of the Belt Railway Company of Chicago. I don't know whether the Illinois Central is an owner line or not. In case of these lines we arrived at the amount of switching charges payable on traffic delivered by taking the actual switching which was paid to the Belt Railway. This statement only includes the switching which the inbound lines paid out to the connections. We worked up some of this data sometime ago, but we dropped it when the statement was made that the Southwestern Lines felt that the bridge toll situation at St. Louis should be taken into account and that the terminal situation at Chicago should not be taken into account. We thought it advisable to show the Commission just why the Southwestern Lines would take that position. In taking that position we certainly considered the fact that on all traffic crossing the river at St. Louis, the Southwestern Lines pay the bridge toll, but as to traffic going to every other place in Western Trunk Line Territory through East St. Louis, except Chicago, Chicago absorptions do not apply. I would not consider for a minute that the Chicago absorptions would apply at points other than Chicago. We have very heavy expenses at a point like Peoria. At Springfield I don't think they are as heavy as they are at Peoria. We don't reach Decatur. Bloomington charges [fol. 1392] would not be as high as Peoria. Joliet would probably be higher. I have not an exhibit like this for Kansas City, routed via Kansas City. I am only dealing with the St. Louis situation because the bridge toll situation and St. Louis has been discussed, and nothing has been said with respect to movement via Kansas City (Tr. 5884-5885-5886-5887).

The statement theretofore described by the witness was thereupon offered in evidence as Exhibit A-275 (Tr. 5887).

(The statement described by the witness was received in evidence as Exhibit A-275.)

[fol. 1393] The Witness (continuing): I started to say that it is impossible to handle live stock in this manner and to make early morning deliveries at the Union Stock Yards and for that reason it is necessary for the inbound trunk lines to handle this traffic with their own power. I make this explanation because no terminal deductions are shown in the case of live stock, not even the trackage being taken into account. I desire to emphasize the fact that numerous trackage charges are incurred in the handling of freight at Chicago, but none of these expenses have been included in the terminal deductions. Only the actual switching charges of the delivering and intermediate roads have been taken into account. One of the severe handicaps under which the East St. Louis-Chicago lines are laboring is the fact that by the absorption of intermediate switching charges at East St. Louis and terminal switching charges at Chicago there is imposed upon them a burden disproportionate to the earnings which they receive for the relatively short haul and we cannot emphasize too strongly the request that this abnormal situation be taken into account by the commission in the determination of this case (Tr. 5887-5888).

We do not prorate with the Southwestern Lines all allowances to tap lines. They pay them out of their own pocket. On southbound business the Southwestern Lines absorb the switching charges at East St. Louis and where that was done that was shown on this statement (Tr. 5888-5889).

Mr. Outlaw: Mr. Examiner, Mr. Muckley has asked for the names of the Chicago trunk or switching lines to whom these allowances were paid, and I would like to add to that request and ask that Mr. Behrle furnish the commission with the number of cars handled by each of the four lines in there, with a division as to each switching agency for [fol. 1394] the number of cars handled through that instrumentality of switching agency and the amount of money paid.

Mr. Towner: I don't know that we can furnish that.

With reference to this request the Examiner said, "Instead of putting all of this in the record, show each other your working sheets. Not for the record" (Tr. 5889-5890).

G. A. HOFFELDER was thereupon called as a witness and testified as follows:

Direct examination:

I live at Chicago and am Assistant General Freight Agent of the Burlington Railroad.

(Attorney Muckley here conceded the witness' qualifications) (Tr. 5890).

Exhibit number A-182 Witness Sickle treats with the division on petroleum and products from Arkansas and Louisiana via East St. Louis to Illinois points, Milwaukee and the Twin Cities, but deals particularly with divisions to Chicago. On traffic from Eldorado via East St. Louis to Chicago the lines north receive 30 per cent and on the basis of this percentage are accorded 10.8 cents on refined oil; 8.9 cents on crude oil and 9.1 cents on asphalt. Apparently the exhibit is designed to show that these proportions are too high and in this effort numerous rate prorates are used. In fact, at page 5269 of the record the definite statement is made that the portion accruing to Western Trunk Lines is excessive. Mr. Sickles' exhibit A-182 embodies four suggestions of the Southwestern Lines which I have analyzed and my exhibit A-276 shows the result. Proposal number 1 is that the percentage relation of the commodity rate on refined oil from Eldorado to St. Louis to the class rate Eldorado to St. Louis be applied to the local commodity rate on oil from St. Louis to Chicago and that the resultant theoretical rate prorate with the commodity rate of 29½ [fol. 1395] cents on oil from Eldorado to St. Louis. On this basis the lines south would receive 27.6 cents, or 93½ per cent of their local rate and the lines north 8.4 cents, or 49.4 per cent of their local rate (Tr. 5891-5892).

Proposal number 2 contrasts an inflated theoretical commodity rate on petroleum of 57 cents south as against the actual commodity rate of 17½ cents north and on this basis

the lines south would receive 27½ cents or 93.2 per cent of their local rate and the lines north 8½ cents or 50 per cent of their local rate. Proposal number 3 is a theoretical rate prorate using fifth class rate north and south of East St. Louis. On this basis the lines South would receive of their local rate. Proposal number 4 is that the lines north of East St. Louis be allowed the same percentage proportion of the former proportional fifth class rate of 20½ cents from East St. Louis to Chicago as the rate on refined, crude and road oil equal to the through fifth class rate. Under this fictitious prorate the lines south would receive on refined oil 28.7 cents or 97.3 per cent of their local rate while the lines north would receive 7.3 cents or 42.9 per cent of their local rate. On crude oil the lines south would receive 23½ cents or 97.9 per cent of their local rate and the lines north 6 cents or 35.3 per cent of their local rate. On road oil the lines south would receive 24.3 cents or 105.6 per cent of their local rate and the line north 6.2 cents or 36.5 per cent of their local rate (Tr. 5892-5893).

[fol. 1396] We direct the attention of the Examiner to one very important fact, which is that nowhere in this exhibit of Mr. Sickle's will there be found any suggestion of a prorate of the through revenue by using the actual commodity rate factors of the going rates, that is, the rates which actually carry the oil in carload lots from Eldorado to East St. Louis, and the rates which carry oil from East St. Louis to Chicago, and which are the commodity rates that would move the traffic from Eldorado to Chicago, if there were no joint through rates in effect.

My exhibit number A-277 is prepared to show that on an actual commodity rate prorate the lines north of East St. Louis would receive increased proportions of 2.6 cents per 100 pounds on refined oil, 3.5 cents per 100 pounds on crude oil and 4.1 cents per 100 pounds on asphalt.

The two statements described by the witness were thereupon offered in evidence as Exhibit- A-276 and A-277 respectively (Tr. 5893).

(The two statements described by the witness were thereupon received in evidence as Exhibit- A-276 and A-277 respectively.)

[fol. 1397] The Witness (continuing): My exhibit number A-278 is in rebuttal of Mr. Sickel's exhibit A-182 also Mr.

Trouvillion's Exhibit number A-216. Sheets 2 and 3 of Mr. Sickel's exhibit number A-182 deal with divisions on Louisiana-Arkansas oil via Kansas City to Chicago. It is suggested by Mr. Sickel on page 5275 of the record that the proposed divisions north of East St. Louis should be accorded the lines handling oil traffic from Kansas City to Chicago because of the additional haul of the Southwestern lines from Shreveport to Kansas City over the haul from Shreveport to East St. Louis. On exhibit number A-278 we have shown the existing divisions via Kansas City from Shreveport to Chicago on oil and in addition we have shown the present divisions via Kansas City on oil from Tulsa, Eldorado, Arkansas, and Wichitia Falls, Texas. The exhibit shows the through rates principally to Chicago, the present divisions in cents and in percents the actual short line mileage south and north of Kansas City and then the exhibit shows what the divisions would be based on a mileage prorate and also on a rate prorate using the actual commodity rates from the original points to Kansas City and from Kansas City to Chicago and the other destinations instead of using fictitious or theoretical factors north and south of Kansas City such as used by Southwestern Lines in their exhibits (Tr. 5894).

When I say fictitious, I mean that the Southwestern Lines are possibly trying to fool themselves. On the whole, I would say the fifth class rate is fictitious. I don't know why you want to pick out a fifth class rate unless to fool yourselves or somebody else. So far as Chicago as a destination is concerned in all cases under a mileage prorate the lines north of Kansas City would receive increased divisions and this is also true so far as Chicago is concerned under a rate prorate.

The exhibit described by the witness was thereupon of-
[fol. 1398] fered by the witness as Exhibit A-278 (Tr. 5895).

(The statement described by the witness was thereupon offered in evidence as Exhibit A-278.)

[fol. 1399] My exhibit A-279 is directed to Southwestern Lines exhibits A-182, A-219 and A-221 which among other things show divisions on oil principally to Chicago which apply via East St. Louis and which exhibits attempt to prove that the present divisions north of East St. Louis are too high by showing a comparison of the present divisions with fictitious or theoretical rate prorates. On my exhibit A-279 I show the present rates and present divisions on re-

fined oil, crude and asphalt from Tulsa, Oklahoma, Elorado, Arkansas, Shreveport, Louisiana, and Wichita Falls, Texas, to Chicago. I then show the short line mileages to and from East St. Louis and show what the divisions would be in cents and in percents based on a mile prorate. The exhibit also shows the local commodity rates to and from East St. Louis which actually moved the oil destined to St. Louis originating in the Southwest and which move oil from refining points in the East St. Louis district to Chicago, and points in that vicinity. The exhibit then shows what the decisions would be in cents and percents based on a rate prorate using these actual commodity rates to and from East St. Louis as factors. In the last two columns on the right hand side we show the percentage relationship of the percent divisions to the local commodity rates north and south of East St. Louis. Either on a rate prorate or a mileage prorate the lines north of East St. Louis would be entitled to increased divisions with the exception that on refined and crude oil from Wichita Falls the lines north would receive less on mileage prorate which is due to the use of M. K. T. mileage from Wichita Falls to East St. Louis. This mileage of 793 miles is almost as great as the short line mileage from Wichita Falls to East St. Louis via Kansas City.

The statement described by the witness was thereupon offered in evidence as Exhibit A-279 (Tr. 5896-5897).

(The statement described by the witness was thereupon received in evidence as Exhibit A-279.)

[fol. 1400] The witness, continuing: My exhibit number A-180 is in connection with Mr. Trouvillion's testimony relating to his exhibit A-208 which purports to show how the original group-3 Oklahoma rate or territory that was in effect at the time the I. C. C. decision in the Mid-Continent oil case was decided, has spread to Southwestern Oklahoma origin points. Mr. Trouvillion attributed the enlargement of group 3 to action of the Chicago, Rock Island & Pacific and Atchison, Topeka & Santa Fe Lines. My exhibit A-280 is the result of study of Agent Boyd's tariff naming the rates on petroleum from group 3 points and starting with March 18, 1921, the exhibit shows the subsequent dates on which rates from Oklahoma points outside of the original group 3 boundaries were reduced until finally they were put on the group 3 basis.

The statement described by the witness was thereupon offered in evidence as Exhibit A-280 (Tr. 5897-5898).

(The statement described by the witness was thereupon received in evidence as Exhibit A-280).

[fol. 1401] The witness, continuing: My exhibit number A-281 consists of 4 pages and was prepared in rebuttal of Mr. Trouvillion's exhibit number A-216 introduced at the Galveston hearing as per page 5547 of the record. Mr. Trouvillion's exhibit A-216 shows the divisions via Kansas City on petroleum oil to Chicago and six other points in Wisconsin, Minnesota, Iowa and Illinois. Among the things his exhibit shows a mileage prorate but he uses the average mileage from the enlarged group 3 Oklahoma origin territory rather than the actual short line mileage to Kansas City from Tulsa and the seven other Oklahoma points shown on his exhibit, and the short line mileage north of Kansas City. His exhibit further shows a theoretical rate prorate using the average of the fifth class rates from the Oklahoma points to Kansas City and the fifth class north of Kansas City as factors for his rate prorate (Tr. 5898-5899).

My exhibit number A-281 shows the present rates and the present divisions from the Oklahoma points to the destinations shown in Mr. Trouvillion's exhibit A-216 on refined oil, crude oil and asphalt; then it shows the local commodity rates to and from Kansas City and the divisions would be in cents and in percents based on a rate prorate.

The exhibit then shows the short line distances to and from Kansas City and what the divisions would be based on a mileage prorate. The last four columns on the right hand side of the exhibit which show the percentage relationship between a mileage prorate and the present divisions, and the percentage relationship between a rate prorate and the present divisions will tell the story.

The exhibit described by the witness was thereupon offered in evidence as Exhibit A-281 (Tr. 5899).

(The statement described by the witness was thereupon received in evidence as Exhibit A-281.)

[fol. 1402] The Witness (continuing): My exhibit number A-282 was prepared in rebuttal of Mr. Trouvillion's exhibit A-219, which among other things presents a mileage prorate on oil from Oklahoma group 3 points to Chicago

and other points in Illinois and Wisconsin by first deducting the St. Louis bridge and then dividing the balance on a mileage prorate using average short line miles from all Oklahoma to St. Louis and the short line mileage north. Also his exhibit shows a theoretical rate prorate using the fifth class rate as factor. My exhibit number A-282 shows actual performance on three carloads of refined oil destined Chicago, using the first example shown covering a car originating at Cleveland, Oklahoma, which was taken from the statement of shipments moving via Chicago & Eastern Illinois during June, 1924, which is of record in this case; it is shown that the reductions account of St. Louis bridge toll absorbed by Southwestern Lines was $11.94 that the absorption by the Chicago & Eastern Illinois at Chicago were $18.30. The 36 cents through rate divides 68 per cent south and 32 per cent north of East St. Louis and the percentage of revenues after deductions indicates that lines south of East St. Louis received 63.8 per cent of the total revenue instead of 68 per cent and the lines north of East St. Louis received 20.7 per cent of the total revenue instead of their division of .32 per cent. Percentage of the mileage haul south of East St. Louis was 63.2 per cent and north of East St. Louis 36.8 per cent.

The statement described by the witness was thereupon offered in evidence as Exhibit A-282 (Tr. 5899-5900).

(The statement described by the witness was thereupon received in evidence as Exhibit A-282.)

[fol. 1403] The Witness (continuing): My exhibit number A-283 shows actual earnings accruing to the lines north and south of East St. Louis on four typical cars of petroleum moving from Oklahoma and Texas refining points to Chicago, Illinois via Chicago & Eastern Illinois in June, 1924, the statement of which movement is of record in this case. It is directed toward Mr. Trouvillion's exhibit A-228 which purports to show earnings with the St. Louis bridge deducted. This exhibit covering four typical cars destined to Chicago shows the earnings south of St. Louis after taking off the St. Louis bridge charges and north of East St. Louis after taking off the Chicago switching absorption. Taking as an example the first car which originated at

Burkburnett, Texas, the percentage of revenue after deductions south of East St. Louis was 74.3 per cent and north 14.3 per cent instead of the established current percents which are 80 per cent south and 20 per cent north. The net result was the ton mile earnings on this car which accrued to the lines south of East St. Louis was 7.1 mills and the net ton mile earnings which accrued to lines north of East St. Louis were only 3.8 mills (Tr. 5901).

The statement described by the witness was thereupon offered in evidence as Exhibit A-283 (Tr. 5902).

(The statement described by the witness was thereupon received in evidence as Exhibit A-283.)

[fol. 1404] The Witness (continuing): That does not tell the entire story, because of the fact that in many of the cars of oil or other commodities, it is necessary to use the Belt or the Indiana Harbor as an intermediate carrier. Now, if the Belt is used as an intermediate line in making delivery in the Chicago district, the Belt have a charge of $6.30 per loaded car and the Chicago lines are obliged to also pay the Belt $3.15 for the return of the empty.

Cross-examination:

In showing the net to the lines north of East St. Louis, I first deducted the $12 allowance at Chicago, and in showing the net ton mile earnings on the lines south I first deducted the Mississippi River bridge toll. What that is is shown on the exhibit. The 7 mills per ton mile is after deducting the bridge toll at St. Louis. It will be noted that the percentage of revenue after deductions south is 74.3 per cent, whereas the Southwestern Lines divisions is 80 per cent. I am not familiar with the switching lines in the Eldorado-Smackover district. I don't know about the absorptions there. I don't know about the Louisiana Northwestern Railroad in Louisiana. I do not know the situation in the Louisiana-Arkansas oil belt (Tr. 5902-5903-5904).

On the Chicago cars there is a terminal allowance of $12 on some lines. It is 2 cents per hundred pounds, minimum 60,000 pounds, on some lines and on others it is a cent and a half, minimum 60,000 pounds. That charge is not absorbed—for instance, if the Burlington would haul the car

into Chicago and it was unloaded on the Burlington, there would be no such absorption. In case where any other line that made delivery to an industry or consignee on its own line, there would be no terminal charge. In case of cars going east when the Belt is used as an intermediary, there is a charge of $5.40 on the Indiana Harbor Belt and $6.30 on the Chicago Belt. In case of a road haul between East St. Louis or Chicago over an eastern line, if the railway [fol. 1405] bringing the traffic into Chicago happens to be a member line of the Belt railway it may use the Belt facilities and make delivery itself to the eastern connection without charge. This would not be true if the traffic was unloaded at a point on an eastern connection in the Chicago district. I don't want to give the impression that the $12 which I have shown is necessarily the charge on every car (Tr. 5904-5905-5906).

Referring to Exhibit A-278, I would not say that in selecting Tulsa I have used practically the nearest point to Chicago in the Oklahoma group of which Tulsa is a part.

Attorney Towner here said that the points that were used by the witness were used by Witness Trovillion; that witness Trovillion selected the points and this witness took his selections.

The Witness (continuing): Tulsa is one of the northern Oklahoma points. The showing would also apply from points in central Oklahoma and points as far south as Ardmore, Oklahoma, but as Mr. Trovillion testified, there was a time when the group was up in the northern part of Oklahoma, now that is spread down as far as Ardmore and Altus and Lawton. It is my understanding that the majority of the oil is shipped from that territory from points like Tulsa and Cushing rather than from these other points.

Attorney Towner here said that the facts were shown in the tonnage statements (Tr. 5906-5907).

The through rate on refined oil from Tulsa to Chicago is 36 cents and the rate on refined oil from Kansas City to Chicago is 32.5 cents. That rate is related to the Tulsa rate. The difference is only 3.5 cents for a difference in haul of 257 miles, but if it moves through St. Louis it might

be different. Both rates were fixed by the Interstate Commerce Commission. The rate from Group 3 to Chicago is [fol. 1406] too low. Under a tentative report in the Consolidated Oil Cases now pending, the Examiner proposes to give the carriers an increase in that rate (Tr. 5907-5908).

If the Tulsa rate is too low, I don't think the Kansas City rate is too high. Those points are related to each other. In the Sugar Creek or Kansas City district the shippers in that district are directly related with the Tulsa shippers. I am not saying that I have no criticism of the Kansas City rate, but it is my honest opinion that the Tulsa rate is too low. As a matter of fact, the Kansas City people, I think, now have a complaint filed which attacks the spread between Group 3 and the Sugar Creek District. I know that that complaint attacks the spread to C. F. A. territory. I am not so sanguine, however, with respect to Chicago. They want to increase the spread between the Kansas City rate and the Tulsa rate (Tr. 5908-5909).

Generally speaking, it is generally considered that the commodity rates reflect competitive and commercial conditions. It is my opinion that that is a fact. As a matter of fact the commodity rates are the rates, of course, which move the traffic and they are affected by commercial conditions in the industry, and competitive conditions among carriers, unless you have a hard and fast mileage scale (Tr. 5909-5910).

Referring to the class rates: I have heard it said that class rates are supposed to be the normal rates, but I do not altogether agree with that, because you take the Southwestern territory or take, first 9702 territory east of the Kansas City Southern, the commission's decision in 9702 very plainly intimates that the class rate level down there is high, because of the fact that there are so many, many commodity rates in existence. That is also true with repect to the Southwestern Class rates, or the Southwestern class rate situation. You have a relatively higher class rate [fol. 1407] level in southwestern territory, because of the fact you have got multitudinous commodity rates. Now, up in Western Trunk Line territory we have one of the lowest class rate scales in existence. It is a relic of the olden days. The 5th class rate for example, is less than 36

per cent of the first class rate. There are relatively fewer commodity rates in Western Trunk Line territory. I would say that the class rate structure as a whole is not as amenable to commercial and competitive influences as the commodity rate structure. I qualified my statement with respect to Southwestern Territory where there is comparatively little tonnage moving in carload lots under the class rates. They are almost all commodity rates. I think that the divisions on petroleum and its products shown on the exhibit are the agreed divisions.

Attorney Towner here stated that he had completed his case (Tr. 5910-5911-5912).

The attorneys for the Southwestern carriers thereupon requested an adjourned hearing for the purpose of rebutting testimony of the Western Trunk Lines. After discussion the Examiner announced that a further hearing would be had in the case at Washington D. C. at 10 o'clock A. M. at the office of the Commission, on June 28, 1926, and that the hearing would be solely for the purpose of affording the Southwestern Lines an opportunity to cross examine the witnesses of the Western Trunk Lines who testified at the hearing which was just being closed, and that the evidence to be introduced by the Southwestern Lines at the further hearing should be strictly and definitely and technically rebuttal of the evidence put in by the Western Trunk Lines at the hearing which was just being closed. During the course of this discussion, the Examiner said, "I think you can simplify this a good deal if you eliminate all [fol. 1408] evidence you have in mind which bears primarily on these exhibits except those which show what the divisions are and what the actual revenue is. What I want to know is what the revenue is, not what it should be. If you have eliminated that from these exhibits, you have not much to answer" (Tr. 5912-5916).

After a short discussion as to the nature of the evidence which the Southwestern Lines would introduce, the hearing was thereupon adjourned to June 28, 1926, at 10 o'clock A. M. at Washington, D. C.

[fol. 1409] Washington, D. C., Monday, June 28, 1928.

The hearing was resumed, pursuant to adjournment. The examiner called the hearing to order and Attorney Outlaw said that if the Western Trunk Lines had any further testimony, he believed they should put it in before the Southwestern Lines proceeded.

Attorney Towner replied that he had no further testimony except with respect to matters as to which request was made on him, one of which was that a suggestion was made that there should be some showing on the record with respect to the basis of settlement in the transcontinental part of the case, that Mr. Parsons had figured it out and he understood had given the figures to Mr. Dana; that the other matter was a request made upon him to furnish a breakdown of the figures shown in Mr. Behrle's exhibit A-275 (Tr. 5918-5919).

B. F. Parsons was thereupon recalled as a witness and testified as follows:

Direct examination:

Exhibit A-284, consisting of two pages, is based upon exhibits that were introduced in connection with the divisions on transcontinental traffic.

The first page is based upon data shown in Mr. Toll's Exhibit 227 of traffic other than lumber from North Pacific Coast states moving through the Missouri River crossings. Mr. Toll was a Transcontinental witness and I have shown the new percentages that were effective July 1, 1925, and I have applied these percentages to the revenue as shown on Toll's Exhibit 227 and have then carried out the calculation to show the number of miles west of the gateway compared with the miles east of the gateway represented by these divisions. The final result for the five groups east of the Missouri River is to show that the roads west of Missouri River crossings receive divisions equal to an allowance of 1.32 miles for each mile of service, while the [fol. 1410] roads east receive actual mileage. That is shown on the first page.

Page 2 is a similar compilation made from exhibits that I prepared and introduced in that hearing, and shows the

traffic handled by the Chicago Great Western Railroad, both through the Missouri River crossings and through Minnesota Transfer (Tr. 5919-5920).

This exhibits includes the North Pacific Coast lumber. On the traffic moving through the Missouri River crossings it shows the divisions west as revised July 1, 1925, were equal to an allowance of 1.34 miles. This checks quite closely with the figures computed from Mr. Toll's exhibit, which was 1.32. On the traffic moving through Minnesota Transfer it shows the allowance west was equal to 1.22 miles, and on all of the traffic moving through both Missouri River and Minnesota Transfer the allowance west is equal to 1.29 miles. The second page of course covers only traffic that was handled east of the gateways by the Chicago Great Western Railway, but it includes all lumber from North Pacific Coast territory which I could not include on page 1 for the reason that while Mr. Toll included that lumber, he included it as a single item and it was not divided as to the several destination groups east of the Missouri River crossings. Mr. Toll's exhibit included no traffic moving through Minnesota Transfer, only the business via Missouri River crossings (Tr. 5920-5921).

Cross-Examination:

It is substantially correct to say the new percentages shown on page 1 of the exhibit are in fact, the result of an agreement between all the lines which itself followed an agreement between the Chicago Great Western and the Union Pacific based largely on how much one line was willing to take and the other was willing to give. The Chi- [fol. 1411] cago Great Western and the Union Pacific reached an understanding, and then the rest of us virtually had the choice of accepting it or not; and we finally accepted it. I understand, although I was not present at the conference that in those negotiations the pivotal point of them was the minus five cent-fifteen per cent territory (Tr. 5921-5922).

On page 1 I show the ton miles for the carriers west on which the figures are based, 2,709,000,000 odd, and on page 2, on the traffic handled by the Chicago Great Western the ton miles are only 304,000,000, about 10 per cent of the ton

miles shown on page 1. The average haul shown on page 1 for the Western Trunk Lines was 460 miles and that of the Transcontinental lines west, 1,855. The comparable features on page 2 would be in the first block, that is, 483 miles east and 1,891 miles west. The figures comparable with the ones shown on page 1 are those in the first block on page 2, because that is the traffic moving via the Missouri River (Tr. 5922-5923).

Redirect examination:

The figures on page 1 of 1.32 miles west and the final figure on page 2 of 1.29 miles west are weighted figures (Tr. 5923).

J. A. BEHRLE was recalled as a witness and testified further as follows:

Direct examination:

At the last hearing I was requested to show in connection with Exhibit No. A 275 how the switching expenses at Chicago were distributed as to the destination lines.

In conformity with this request I have prepared a statement showing the switching performed at Chicago by the C. & A., C. & E. I., Illinois Central and the Wabash on traffic between Chicago and the southwest via East St. Louis based on the movement of traffic during June, 1924 (Tr. 5923).

[fol. 1412] In the compilation of these figures there are some errors in Exhibit No. A-275 detected, and for that reason we have revised Exhibit No. A-275 and we are prepared to introduce this as a corrected exhibit (Tr. 5924).

(The statement described by the witness was thereupon received in evidence as Exhibit A-275 corrected.)

[fol. 1413] Exhibit A-275 corrected does not change the original exhibit to any material extent. As an illustration of the percentage relationship of ton mile earnings north versus south the gross figures in Exhibit A-275 were 76.6 north and 130.6 south, whereas in the corrected exhibit they are 75.5 north and 132.5 south. The net figures in the orig-

inal exhibit A-275 were, north, 63.5, and, south 157.5. The corrected figures are 63.4 north and 157.8 south.

Exhibit A-285 is a statement showing switching paid at Chicago by the Chicago & Alton, Chicago & Eastern Illinois, Illinois Central and Wabash on traffic between Chicago and the southwest via East St. Louis, based on movement of traffic during June, 1924. This statement shows how the switching expense was distributed at destination. Exhibit A-285 covers the traffic shown on Exhibit A-275 corrected, the same cars (Tr. 5924-5925).

(The statement described by the witness was thereupon received in evidence as Exhibit A-285.)

[fol. 1414] Referring to Exhibit A-285, there were 1,292 cars handled by those four roads between East St. Louis and Chicago during the period shown. That is the total number of cars. Out of that number there were only 389 on which no terminal switching was incurred (Tr. 5925).

We have included all the absorptions of those four lines on the traffic delivered at Chicago.

(Attorney Towner here stated that in the last figure given by the witness he included the switching charges paid by these four roads to other Western Trunk Lines parties to this case.)

It also includes switching on exclusively switching carriers at Chicago. The principal lines which are switching carriers are the Chicago Junction, the B. & O. C. T., the Belt Railway of Chicago, the Illinois Northern, the Chicago River & Indiana, the Indiana Harbor Belt. There are some smaller lines such as the Pullman Railroad, the Manufacturers Junction Railway and the Chicago Short Line, but the ones which I have previously given are the principal switching lines. The Chicago West Pullman & Southern is one of the smaller switching lines (Tr. 5926-5927).

I do not know what per cent the lumber covered by Exhibit A-285 is of the total number received at Chicago in June 1924 by the Western Trunk Lines by all junctions. I think the exhibits introduced by Mr. Balch would show that as to the southwestern traffic (Tr. 5927).

I can not state positively, but I think the proprietary companies of the Indiana Harbor Belt are the New York Central, Chicago, Milwaukee & St. Paul and Chicago &

Northwestern. I do not know just what the Belt Railway of Chicago ownership is. There are some cases where as to the switching line shown on Exhibit A-285 the deliveries could have been made by either the Belt Lines or the Western Trunk Lines, but those cases are the exception rather than the rule.

[fol. 1415] Examiner Disque: Are we ready for the Southwestern Lines' rebuttal?

Mr. Outlaw: Yes, Mr. Examiner (Tr. 5927-5928).

CHARLES C. DANA was thereupon recalled as a witness and testified as follows:

Direct Examination:

In connection with Exhibit A-284, submitted to Mr. Parsons, which shows the relation of a weighted average mileage prorate of divisions on transcontinental traffic which became effective July 1, 1925, I desire to call to the attention of the Examiner the fact that, speaking generally, the rates between the Missouri River and the southwest are on a higher level than are the rates between the Missouri River and the Pacific Coast territory. That statement is based not only upon my general knowledge of the rate structure in that territory, but also upon certain checks which I have made. For instance, I have taken the class rates between the Missouri River and the Pacific Coast terminals and between the Mississippi River and Pacific Coast terminals and determined the average revenue per ton per mile for the average of the ten classes as to those rates, and have also taken the class rates from Kansas City to the Dallas-Fort Worth group, and from Kansas City to Texas common points, also from St. Louis-East St. Louis to Texas common points, and determined the average revenue per ton per mile for the average of the ten classes in exactly the same manner (Tr. 5929-5930).

On the ten class rates between the Missouri River and Pacific Coast terminals the average revenue per ton per mile for the average of the ten classes is 2.706 cents; between the Mississippi River and Pacific Coast terminals. The average revenue per ton per mile for the average of the ten classss is 2.47 cents; from Kansas City to Dallas-

Fort Worth group the average revenue per ton per mile for the average of the ten classes is 4.488 cents. In the [fol. 1416] same manner Kansas City to Texas common points, 3.579 cents. From St. Louis-East St. Louis to Texas common points, 3.178 cents. In determining these average revenues per ton per mile I used the average haul west of the Missouri River as may be determined either from Mr. Parsons' Exhibit A-284 or Mr. Toll's exhibit A-227, namely, 1,855 miles. And between the Mississippi River and Los Angeles, San Francisco, etc., the average haul was 2.221 miles. For Kansas City to Dallas-Ft. Worth I used the average haul for northeast Texas points in Mr. Parsons' Exhibit A-77 of 514 miles, and Kansas City to Texas common points other than northeast Texas, from the same exhibit, 713 miles; St. Louis-East St. Louis to Texas common points, from the same exhibit, 803 miles (Tr. 5930).

I also checked the rates both from the Missouri River to Pacific Coast terminals and from the Missouri River to Texas common points on a number of commodities which move in considerable quantity as shown by the exhibits in this case from Western Trunk Line territory to the southwest. I used the rates on farm wagons, windmills, agricultural implements, boilers—power, paper, books, roofing material, cheese, desks, refrigerators, wrapping paper, automobiles, stoves, paint, soap, tinware, matches and condensed milk, also corn and wheat, southbound, sulphur northbound from Texas and westbound from the Missouri River to Pacific Coast terminals, and citrus fruits from California to the Missouri River and from territory on the St. Louis, Brownsville & Mexico to the Missouri River. In each and every instance, with the exception of sulphur, the average revenue per ton per mile was greater on the rates to or from southwestern territory than to or from the Missouri River and transcontinental territory. We know that in many instances transcontinental rates are the maximum rates to Texas common points; also that the Texas common point rates are in many instances maximum rates to Oklahoma. I think there can be no question but what, as I said, in the beginning, speaking generally, the level of the rates between the Missouri River and the southwest is [fol. 1417] higher than the level of rates between the Missouri River and transcontinental territory based on weighted average hauls (Tr. 5931-5932).

Q. Have you Mr. Westcote's exhibit before you?
A. Yes; Exhibit A-252.

Mr. Outlaw: Mr. Examiner, before Mr. Dana proceeds with his testimony I would like to move that all references on Exhibit A-252 to the proposed rates in Western Trunk Line territory be stricken from that exhibit. Similar data was stricken from the record offered in other exhibits on the objection of the Southwestern lines, and that exhibit, by reason of its complexities and the number of pages, escaped my notice, and I would at this time ask that that part of the exhibit be stricken, to clear the record.

Examiner Disque: If there is no objection we will disregard it.

Mr. Towner: There is objection.

Examiner Disque: Did you object to the other ones?

Mr. Towner: Yes, sir. I was overruled, but I objected just the same.

Mr. Muckley: I think it ought to be stricken out, Mr. Examiner (Tr. 5932).

In testifying with respect to his Exhibit A-252 Mr. Westcote, in referring to sheet 1 of that exhibit which is a statement of class rates and divisions between Chicago and Texas common points via East St. Louis showing the rates in effect December 1, 1892 and the present rates, made the following statement, as shown on page 5771 of the record:

"Out of the present rates the lines north are only receiving 75.3 per cent, while the southern lines have succeeded in maintaining the same ratio. In other words, the percentage relationship of proportions of lines north has decreased 8.5 per cent with no change south." That remark was di- [fol. 1418] rected toward the percentage relationship of the divisions north to the local rates. Mr. Westcote's statement is true, but it needs some explanation. In the first place, by referring to sheet 1 of the exhibit and using the average of the ten classes it will be found that the through rates from Chicago to Texas common points as of today are 158.4 per cent of the 1892 rates; also that the divisions north of East St. Louis are 161.9 per cent of the 1892 divisions. In other words, the divisions to the lines north of East St. Louis have increased in greater ratio than have the joint through rates. That was brought out in my direct testimony (Tr. 5932-5933).

In so far as the local rates north of East St. Louis are concerned, it will be found by referring to the same page of the exhibit that the local rates north of East St. Louis are 180.5 per cent of the 1892 rates; that is to say, the local rates have increased at a much greater ratio than did the through rates. That was brought about by the increases which were made effective February 15, 1920, under Freight Rate Authority 21432 in the rates between Chicago and St. Louis which had been increased on June 25, 1918, 25 per cent under General Order 28. Those rates, I think, were at that time increased, that is to say, February 15, 1920, to conform to the rates which had been made effective or established for like distances in C. F. A. territory. Then on August 26, 1920, these increased rates were again increased in Illinois under Ex Parte 74 by practically 40 per cent, there being some variations in order to make them conform to the percentage relationship of the classes which had been established; and of course those rates which had been increased were reduced under Reduced Rates 1922, 10 per cent. That had the effect of increasing the local rates north of East St. Louis by a much greater ratio than the through rates between Chicago and Texas common points were increased (Tr. 5933-5934).

[fol. 1419] I think it will be interesting to point out to the Examiner that a somewhat similar situation obtained when the rates were increased, I think under Ex Parte 57, 15 per cent in C. F. A. territory, and the question arose as to the divisions which the C. F. A. lines should receive out of the joint through rates between C. F. A. territory and Texas common point territory. At the time these rates were increased 15 per cent in C. F. A. territory the Southwestern lines approached the Commission at a conference with then Chairman Hall on August 8, 1917, and urged the Commission to permit them, the Southwestern Lines, on five days notice to increase the through rates applying between points in C. F. A. and Trunk Line territories, on the one hand, and Southwestern territory on the other, by an amount equal substantially to the increases allowed the eastern lines in the 15 per cent case and the C. F. A. class scale case, or, failing that, that the Commission should indicate definitely that it was not the intention of the Commission to permit such increases or any increase in the proportion of joint through rates accruing to the eastern lines.

The answer from the Commission took the form of a communication addressed by Chairman Hall to George S. Patterson, General Solicitor of the Pennsylvania Railroad, Eugene Morris, Chairman of the Central Freight Association, and C. C. McCain, Chairman of the Trunk Line Association, which was dated August 18, 1917, and which reads as per the exhibit which I am about to submit (Tr. 5934-5).

Mr. Outlaw: I ask that this be admitted as Exhibit A-286.

Mr. Towner: I object, because it has nothing to do with this case. I was served with a copy of the exhibit by Mr. Outlaw, but I cannot see that it has any bearing on the issues here.

Here followed a discussion as to the admissibility of the exhibit in which Attorney Towner stated that the Supreme Court in the recent Peoria & Pekin Union decision had expressed itself very plainly concerning a substantially similar communication of Mr. Commissioner Aitchison, but that [fol. 1420] the point that he based his objection on was that the exhibit had nothing to do with the case. The examiner finally made the following ruling: "We are wasting a lot of time. I doubt whether it is admissible, but I will let it go in" (Tr. 5936-5937-5938-5939).

(The document described by the witness was thereupon received in evidence as Exhibit A-286.)

[fol. 1421] On page 5829 of the record the following question is shown as having been put by Mr. Outlaw to Mr. Gillette who was then testifying: "On traffic which you interchange at Chicago destined to and from Texas common points the Chicago & Northwestern gets 15 per cent of the through rate for its service north of Chicago, does it not?" And Mr. Gillette, after some sparring, said, on page 5830 of the record—"Here is the catch on that. Your division sheet reads that the Southwestern lines will receive 85 per cent of the Milwaukee rate. You get 60" (Tr. 5939-5940).

I think that was an unintentional misstatement on the part of Mr. Gillette. I think he was thinking perhaps of Fox River territory; but if the Examiner will refer to Southwestern lines division sheet No. 40, which was put into the record as an exhibit by Mr. Behrle—I do not know just what the number of it was—he will find on page 26 thereof, under item No. 245 covering Chicago and Milwau-

kee territories, the following statement as to divisions from Chicago & Northwestern points, except traffic within the Chicago switching district; C. M. & St. P. points except when handled via interior Iowa junctions to Texas common points taking common point rates or less, a provision to the effect that the lines to Chicago, that is, lines north of Chicago junctions, will receive 15 per cent. The remainder divides on Chicago percents. That is to say, the lines south do not get their 85 per cent first, but the lines north of Chicago on this particular traffic get 15 per cent of the joint through rate from Milwaukee to Texas common points, and the 85 per cent remaining is subdivided on the basis of Chicago percents if it moves via the Missouri River or via East St. Louis (Tr. 5940).

Cross-examination:

The transcontinental rates to a very considerable extent cover very large blankets. The citrus fruit rate for example, blankets all the way from the Missouri River, I do not know but from Colorado common points clear to the [fol. 1422] Atlantic seaboard. That is not true of vegetables. The vegetables I think are lower to Chicago than to territory east of Chicago. They are $1.46 I think to Chicago and $1.73 to the Atlantic Seaboard. That is true to a very considerable extent of a good many other commodities. As to the commodities the rates are blanketed more or less. The class rates are not blanketed (Tr. 5941).

The blanket situation does not necessarily have the effect of producing a lower rate at the Pacific Coast terminals than would be produced if we had a graded rate all the way across. That depends on what situation the transcontinental lines are trying to meet. I think that in all fairness to the transcontinental lines it is proper to say that probably the transcontinental lines on many commodities are lower than what might properly be considered a just and reasonable rate. We do not constantly attempt to increase the transcontinental rates and carry higher rates to intermediate points because of the fact that our terminal rates are depressed. You understand that these rates which I have compared are rates which apply to all the transcontinental territory. That is to say a rate that is no

higher at the intermediate point than at the Pacific Coast Terminal (Tr. 5942).

I think many of the commodity rates from the Pacific Coast terminals I have referred to in making the comparison with the Southwestern situation are low rates. I would not like to make the broad statement that they are too low. Of course you know that the rates on Southwestern traffic as far as commodities are concerned, are likewise depressed by market competition and carrier competition. I mean to the southwest. Take the sulphur rate that is depressed in order to meet the competition of the imported sulphur. I do not think that that situation exists in the southwest to the extent that it does at our Pacific Coast terminals be- [fol. 1423] cause there is not the same necessity for it (Tr. 5943).

In drawing up this comparison I took quite a number of commodities. I testified to certain commodities that I took. The commodities which I took were moving commodities, those which I found to be moving from Western Trunk Line territory to southwestern territory. I do not conclude from that showing that the cost of handling traffic in the southwest is higher than it is from transcontinental territory. I conclude from that that in order to pay a fair rate of return to the southwestern lines it is necessary for them to have a higher rate level possibly than obtains on transcontinental traffic. I refer to this evidence to indicate that because of conditions other than the actual cost of hauling traffic the Southwestern Lines possibly are entitled to a higher rate level than the transcontinental lines in order to pay a return on the value of the investment. I have not seen any figures that would indicate that we did not need that much. I do not know that the southwestern line as a whole are earning anywhere near a fair rate of return as fixed by the Commission. I do not think that it necessarily follows that if we are earning more than the fair rate of return the rate level is too high. There is nothing in the Interstate Commerce act which says that a rate may not earn more than a fair return. In fact, the act itself provides that when there is an excess return, 50 percent shall be retained by the carrier, indicating clearly that they anticipated that some carriers might earn more than a fair rate of return. I think that the law prescribes that every carrier is entitled to a fair

rate of return. I think that what has been into the record was that the Southwestern Lines are earning less than a fair return.

[fol. 1424] With regard to the transcontinental rates, the competition to which I referred as depressing some of the commodity rates is that present in the transcontinental class rate structure (Tr. 5944-5945-5946).

A. J. LEHMANN was thereupon recalled as a witness and testified as follows:

Direct examination:

Comment is made on page 5706 of the transcript with respect to the mileages shown to East St. Louis from the so-called Southwestern blanket as a whole on Exhibits A-183 and A-184. The former shows the distance to be 697 miles. The distances shown on Exhibit A-183 and A-184 were taken from Exhibit A-185 which is a reproduction of Exhibit 5, filed in connection with I. C. C. Docket 5394 reported in 33 I. C. C. 33 and is a consolidated statement covering all interstate shipments of yellow pine lumber originating in the blanket territory on lines of carriers listed as defendants in I. C. C. 4907 or received by such carriers from non-defendant carriers for movement to St. Louis, Mo., and East St. Louis, Ill. (Tr. 5946-5947).

The average haul per ton mile from the blanket as a whole to St. Louis is shown to be 696.69 miles on Exhibit A-185. In our Exhibit A-183 we used 697 miles. In determining the mileage per cents as shown on Exhibit A-183 to points of destination west of the Mississippi River we applied the St. Louis mileage to East St. Louis and the mileage of the Western Trunk Lines from St. Louis. We show routing via East St. Louis on Exhibit A-183 because substantially more lumber is delivered to northern lines for movement into Western Trunk Line territory at East St. Louis than is delivered at St. Louis. The average haul per ton mile from blanket territory as a whole to East St. Louis is shown to be 678.38 miles on Exhibit A-185. In our Exhibit A-184 we use 679 miles. If we had used to those destinations shown on Ex-

[fol. 1425] hibit A-183 which are located west of the Mississippi River as the Southwestern mileage factor 679 miles to East St. Louis it would not affect to any substantial degree the mileage percents shown on Exhibit A-183 (Tr. 5947-5948).

To Hannibal, Mo., we show mileage south 697 miles, north 118 miles; percents south 85.5, north 14.5. If we use south 679 miles and north 118 miles the percents would be, south, 85.2, north, 14.8. In division of the present rate of 37. cents from the blanket group to Hannibal the lines to East St. Louis receive 26.1 cents and the lines north receive 10.9 cents.

If we employed the mileage percents as shown on Exhibit A-183, that is, 85½ south and 14½ north, and apply such percents to the present rate of 37 cents from the blanket, interested lines would receive to meet St. Louis 31.6 cents and northern lines 5.4 cents. If we should use mileage percents for 85.2 for lines south of East St. Louis and 14.8 for lines north, the revenue in cents per hundred pounds would be south 31½, north 5½. This is typical of what the result would be to other destinations and in our opinion clearly indicates that the slight difference in the mileages shown to East St. Louis on Exhibits A-183 and A-184 would not adversely affect the lines south or north of East St. Louis (Tr. 5948).

In commenting upon the mileages shown in Exhibits A-283 and A-284, witness Schmidt points out that the destinations as shown thereon are less than the average distances shown on Exhibit A-77 and as a result thereof he says "The distance percents due to this would be somewhat higher to the lines north of those points." In determining the distances which we have shown we used the short line distances through workable routes. To Des Moines, Iowa, [fol. 1426] we show 330 miles. Exhibit A-77 shows 343 miles. The actual short line distance is 329.3 miles, made up 171.2 miles via C., B. & Q. to Keokuk, 113.9 miles via C., R. I. & P. to Harvey, Iowa, and 44.2 miles Harvey to Des Moines via the Wabash. To Marshalltown we show 331 miles. Exhibit A-77 shows 356 miles. The actual short line distance is 331 miles as shown on Exhibit A-283 and is made up 171.2 miles via C. B. & Q., St. Louis to Keokuk, 102.4 miles via Rock Island to Oskaloosa and 57.4 miles

Oskaloosa to Marshalltown via M. & St. L. This is another instance where the mileages used by the southern and northern lines would not affect the result in any substantial degree. The statements made on page 5707 of the transcript to the effect that Western Trunk Lines on traffic from the southwestern blanket group to points west of the Mississippi River are now receiving the same measure of increases as has been made in the through rate under the general increases, and reductions as of July 1, 1922, is not altogether correct (Tr. 5948-5949).

As examples, the present rate to Hannibal, Mo., from the blanket territory is 37 cents. The rate in effect May 1, 1917, was 24.5 cents. This represents an increase of 51 per cent in the through rate. As of today, the lines north of East St. Louis receive on lumber from the blanket group to Hannibal 10.9 cents: As of May 1, 1917, the lines north of East St. Louis received 6.5 cents. This represents an increase of 67.7 per cent in the division compared with an increase of 51 per cent in the total through rate. On lumber from the southwest blanket group destined Cedar Rapids, Des Moines and Marshalltown, Iowa, also St. Paul, Minn., the increase in the total through rate and increase in the arbitrary allowed northern lines beyond East St. Louis were substantially the same. To Winona, Minn., however, the increase in the total through rate was 47½ per cent, while the arbitrary of the lines north of East St. Louis increased 57.6 per cent, or 10.1 per cent more than the through rate. It is our view, however, that on the [fol. 1427] whole the proportions for lines south and north of East St. Louis increased in the same measure as increases have been made in the total through rates since May 1, 1917 (Tr. 5949-5950).

My testimony up to this time has been with respect to those points of destinations that are located west of the Mississippi River and speaking of that territory, the increases in the divisions north and south have been on approximately the same percentage as the increase in the through rate. It is my conclusion that that justifies the present divisions to and from that territory on lumber. Because the divisions in effect as of May 1, 1917 were fixed by the Commission in I. & S. Docket 299 and the

proportions for lines north of East St. Louis have been increased in the same amount or same percentage as the total through rates have been increased, I conclude that those divisions are now all right today.

Witness Schmidt on pages 5707 and 5708 of the transcript as dealing with divisions to points of destination located east of the Mississippi River undertakes, as we see it, to create the impression that the northern lines did not receive increased proportions corresponding with the increases and decreases made in the total through rates from the Southwest blanket territory under General Order 28 of the Director General, Ex Parte 74, and I. C. Docket 13293 (Tr. 5951).

In this view of the matter we must, to an extent at least, take exception. The joint through rates on lumber and other forest products grouped therewith from the southwest to Illinois Freight Association territory and to points in Wisconsin located north of the so-called Milwaukee group territory, were made up by combining the separately established local or proportional rates applying up to and beyond Thebes, Ill., as of June 24, 1918, and via the rate making junction, i. e., Thebes, Ill., the proportion of the [fol. 1428] southern and northern lines on lumber originating in the Southwest blanket territory rate group were increased and decreased in amounts corresponding with the changes that have been made in the total through rates. As an example, we point to the rate from the Southwestern blanket to the Chicago group and to the Peoria group, which include points of destination that consume a very substantial amount of lumber and other forest products. To Chicago and group, the through rate from the blanket territory as of June 24, 1918, was 27.5 cents per 100 pounds, made up 16 cents to Thebes and 11½ cents beyond. In dividing that rate, the lines to and from Thebes received their established rate factors (Tr. 5952).

The current rate from the blanket territory to Chicago is 39½ cents, which divides to Thebes 23 cents, beyond 16½ cents. These factors were determined by converting the June 24, 1918, local rates up to and beyond Thebes into percents, to wit: south 58.2 per cent and north 41.8 per cent, and applying such per cents to the presently applicable rate of 39½ cents. The rate from the blanket group to Chicago

is 39½ cents. The June 24, 1918, rate was 27½ cents. This represents an increase of 43.6 per cent. The present division from Thebes to Chicago on lumber from the blanket group is 16½ cents. The June 24, 1918, arbitrary was 11½ cents. This represents an increase of 43.5 per cent, or substantially the same per cent of increase as was made in the through rate. To Peoria and group the through rate from the blanket territory on June 24, 1918, was 26.5 cents, made up 16 cents to Thebes and 10½ cents beyond. In dividing that rate, the lines to and from Thebes received their established rate factors. The current rate from the blanket territory to Peoria and group is 38½ cents and divides to Thebes 23.3 cents, beyond 15.2 cents. These factors were determined by converting the June 24, 1918, local rates up to and beyond Thebes into percents, to wit: south [fol. 1429] 60.4 per cent, north 39.6 per cent, and applying such percents to the presently applicable rate. The present rate from the blanket territory to Peoria is 38½ cents. The June 24, 1918, rate was 26½ cents. This represents an increase of 45.3 per cent (Tr. 5952-5953).

The present division from Thebes to Peoria is 15.2 cents. The June 24, 1918, division was arbitrary of 10.5 cents. This represents an increase of 44.8 per cent, or substantially the same increase in the proportion for northern lines as was made in the total through rate. To Fond du Lac and Marshfield, Wis., the through rate from the blanket territory June 18, 1924, was 34 cents, made up 16 cents to Thebes and 18 cents beyond. In dividing that rate the lines to and from Thebes received their established rate factors. The current rate from the blanket territory to Fond du Lac and Marshfield is 45 cents and divided to Thebes 21.2 cents, beyond 23.8 cents. These factors were determined by converting the June 24, 1918, local rates up to and beyond Thebes into percents, to wit: south 47.1 per cent, north 52.9 per cent, and applying such percents to the present rate. The rate from the blanket group at present in effect to Fond du Lac and Marshfield is 45 cents. The June 24, 1918, rate was 34 cents. This represents an increase of 32.3 per cent. The present division from Thebes to Fond du Lac and Marshfield is 23.8 cents. The June 24, 1918, arbitrary was 18 cents. This represents an increase of 32.2 per cent, or substantially the same increase in the proportion for

northern lines as was made in the total through rate I have been speaking about lumber to the blanketed territory (Tr. 5953-5954).

[fol. 1430] The object in citing these examples is to point out that via the rate-making junctions the southern and northern lines have participated in the increases and reductions to the extent that changes have been made in the total through rates since June 24, 1918.

Considerable has been said with respect to the proportions that the lines from Thebes to East St. Louis received in subdivision of the increased proportions that were allowed lines north of Thebes on lumber from the southwest to Illinois Freight Association territory and Chicago and Chicago group points, but we express the thought that that point is not directly in issue in these proceedings. The divisions on lumber traffic from the southwest to Illinois Freight Association territory via Thebes and via East St. Louis, Ill., must, in our opinion, be considered separate and apart from each other, there being no relation one to the other. The divisions via Thebes are based on the rate factors used in the determination of the joint through rates. The divisions via East St. Louis have always been made independently of Thebes (Tr. 5954-5955).

Certain arbitraries were allowed lines north of Thebes, and these proportions on lumber traffic destined Chicago and Chicago rate points divided by employing merchandise percents, 35 per cent Thebes to East St. Louis, and 65 per cent East St. Louis to Chicago. To other points in Illinois the lines Thebes to East St. Louis received 3 cents per 100 pounds and the lines north of East St. Louis 3 cents less than the rate or proportion north of Thebes. This latter basis was in effect prior to the increase which became effective June 25, 1918. The Southwestern lines do not now ask [fol. 1431] nor have they in the past asked to be allowed in excess of their local rates in division of joint through rates on lumber from the southwest to Illinois Freight Association territory. They do, however, object to using the extremely low divisions they received up to East St. Louis as of June 24, 1918, in determining percents to be applied to the present through rates. To do so would have the effect of establishing divisions via East St. Louis without regard for the long standing basis of merchandise percents ap-

plicable from Thebes. These percents apply not only from Thebes, Ill., proper, but are also used in dividing via East St. Louis the proportions accruing to the lines north of Thebes.

Witness Schmidt says he does not understand how lines handling traffic across the river at St. Louis could consistently claim a proportion of the Thebes rate for the reason that they do not handle the traffic via Thebes. Southwestern Lines who operate into East St. Louis via St. Louis are not asking they be allowed a proportion of the Thebes rate (Tr. 5955-5956).

For years the lines north of East St. Louis have accepted on lumber delivered to them by their west-side connections, such as the Frisco, M-K-T, and other lines similarly situated, the same proportion in cents per one hundred pounds as they accepted on like traffic they received from those southwestern lines who reach East St. Louis via Thebes and in this proceeding no change in that basis is contemplated. Page 2 of Exhibit A-249 is misleading. The rate of 27½ cents from the the Blanket territory to Chicago as of June 24, 1918, did not divide by allowing lines Thebes to East St. Louis 3 cents. On the contrary the lines to Thebes received 16 cents and the proportion of 11½ cents accruing to lines north of Thebes subdivided on established basis which allowed lines Thebes to East St. Louis 35 per cent. In dividing the present rate of 39½ cents from the blanket group, the lines to Thebes receive 23 cents and the lines [fol. 1432] north receive 16½ cents. The arbitrary of 16½ cents should under our normal basis divide Thebes to East St. Louis 35 per cent, or 5.8 cents, and 65 per cent, or 10.7 cents north of East St. Louis. Under this latter basis the through rate of 39½ cents would divide to Thebes 23 cents, Thebes to East St. Louis 5.8 cents, north of East St. Louis 10.7 cents, or via East St. Louis; and combining the proportions to Thebes and from Thebes to East St. Louis 28.8 cents south and 10.7 cents north. Actually, however, the through rate is being divided to Thebes 23 cents, Thebes to East St. Louis 5.1 cents, or a total proportion of 28.1 cents; and north 11.4 cents (Tr. 5956-5957).

The present basis that is employed in determining the divisions for lines south of East St. Louis allows to those carriers on lumber destined Chicago and Chicago group

points 7/10 of a cent less than they are entitled to. On page 5710 of the transcript Witness Schmidt undertakes to create the impression that the northern lines were forced to accept revenue less than that to which they were entitled. We take exception to this statement. The specific proportions allowed lines beyond Cairo, Gale, Thebes and East St. Louis on lumber from the Southwest to points in Illinois Freight Association territory as published in SWL Division Sheet 47-A, I. F. A. Division sheet No. 12-A, are a matter of agreement between the originating and destination lines and are the result of a joint meeting of Southwestern and Illinois Freight Association Lines held in Chicago September 10, 1924. In order that there may be no question as to the correctness of this statement, we should like, if we are permitted, to file as an exhibit a copy of the proceedings issued by Chairman Galligan of the Illinois Freight Association (Tr. 5958).

A statement showing the representation and agreement reached at the meeting to which the witness referred was [fol. 1433] thereupon offered in evidence as Exhibit A-287 (Tr. 5959).

(The document referred to was received in evidence as Exhibit A-287.)

[fol. 1434] The Witness: It is claimed by witness Schmidt, page 5711 of the transcript, that Southwestern carriers have not accorded member lines of the Illinois Freight Association the same treatment as they have accorded Western Trunk Lines in the matter of divisions on forest products. Our views are not in agreement with that statement. The divisions presently in effect to points west of the Mississippi River in Western Trunk Line territory were determined by using, as of June 24, 1918, 18 cents to East St. Louis and the balance of the through rate then in effect as the proportion for lines beyond East St. Louis. Such factors were then converted into per cents and the resulting per cents applied to the several changes that have been made in the rate adjustment from the blanket territory (Tr. 5959).

The same identical basis was used in arriving at the proportions to be allowed lines members of the Illinois

Freight Association except that we used 16 cents to Thebes, the rate-making junction, as of June 24, 1918, and the established rate beyond Thebes as of that date. Such factors were then converted into percents and the resulting percents applied to the several changes that have been made in the rate adjustment from the southwest since June 24, 1918. Pages 5, 6, 8 and 8A of Exhibit A-249 relate to the divisions from points north of the blanket group and it is pointed out that the Southwestern Lines received a greater percentage of the increase in their divisions than was made in the through rate, whereas the opposite of that situation is true with respect to lines beyond Thebes and East St. Louis. Under the existing basis of divisions with the northern lines, the carriers beyond Cairo, Gale, Thebes and East St. Louis are allowing proportions that remain constant, regardless of the origin of the lumber. This is as it should be. The service rendered by the northern lines is constant and [fol. 1435] the divisions therefore should be constant. The opposite of that situation is true with respect to the originating lines. Their service varies according to origin of the lumber or other forest products (Tr. 5959-60).

In treating with condition of this kind, it is important we have some regard for the divisions we operate on other traffic and with other carriers where substantially the same conditions exist. We have joint through rates on lumber and other forest products from the Southwest to Central Freight Association destinations and in dividing such rates the lines beyond Cairo, Gale, Thebes or East St. Louis are allowed proportions that are constant, regardless of the origin of the lumber. We have joint through rates on Cotton from the southwest to eastern spinning points, and the arbitraries allowed lines beyond Cairo, Gale, Thebes, or East St. Louis are constant, regardless of the origin of the cotton. Also we have through rates to Louisiana and Texas gulf ports on forest products, and the proportions we allow beyond our points of interchange are constant. To Texas destinations where through rates are in effect, the destination lines are allowed proportions that are constant. The same situation is true with respect to divisions to points of destination in Oklahoma and to the west generally. As dealing specially with lumber to Illinois Freight Association and Western Trunk Line territories, our basis of divisions

is not dissimilar to that which the Illinois Freight Association and Western Trunk Lines operate on lumber moving from Mississippi Valley territory; that is to say the lines north of the river crossings accept proportions that are constant, regardless of origin of the lumber (Tr. 5960-1.)

In commenting on page 9 of Exhibit A-246 showing rates and divisions from a few points in the Southwest Blanket Group, it was pointed out that on Chicago traffic lines south of East St. Louis receive 95.2 per cent of the local rate, [fol. 1436] whereas lines north of East St. Louis receive 73.5 per cent of the local rate. Via the rate making gateway, i. e., Thebes, which is the junction that must be considered, the lines to Thebes receive 93.8 per cent of the local rate and the lines from Thebes to Chicago receive 89 per cent of the local rate. If the rate from Thebes to Chicago had been increased under Ex Parte 74 in the same percent of increase as was made in the rate to Thebes, the lines Thebes to Chicago would receive 96 per cent of their local rate. On Exhibit A-185 the average haul per ton is shown to be as folows: To St. Louis, 696.69 miles; to East St. Louis, 678.38 miles. Page 11 of Exhibit A-249 shows the average haul on lumber from points in Arkansas, Louisiana, Oklahoma and Texas to East St. Louis to be 526.2 miles, and, exclusive of Arkansas, 648.9 miles. These figures were obtained from Exhibits A-116 to A-122 inclusive and are not questioned, but we do express the thought that the average haul per ton as shown in Exhibit A-185 is more nearly representative. Exhibits A-116 to A-122, inclusive, cover one month's movement. The figures shown on Exhibit A-185 cover six alternate months for a period of one year (Tr. 5962).

Exhibits A-116 to A-122, inclusive, show a movement of 26,607 tons to and via East St. Louis. Exhibit A-185 shows a movement of 153,221 tons to St. Louis, Mo., and East St. Louis, proper, and a movement of 513,967 tons to Thebes, proper, and points basing thereon when moving through Thebes. As a very large part of the lumber moving to Thebes is handled via East St. Louis, it would appear to be proper to add to the East St. Louis figure of 32,137 tons as shown on Exhibit A-185 the Thebes figure of 513,966 tons, thus showing a total movement via East St. Louis of 546,103 tons, as contrasted with movement of 26,607 tons as shown

on page 11 of Exhibit A-249. Manifestly it is possible to [fol. 1437] more nearly approximate the average haul when using a movement of 23,685 cars as shown on Exhibit A-185 to East St. Louis and Thebes for beyond, than it is by using a limited number as covered by Exhibits A-116 to A-122, inclusive. Also we want to point out that the figures shown on Exhibit A-185 were prepared almost thirteen years ago, and it is well known that since that time the center of production has moved southward considerably. It is our view that the average haul on lumber as of today from the Southwest Blanket territory as a whole is actually in excess of the average haul of 696.69 miles to St. Louis and 678.38 miles to East St. Louis as shown on Exhibit A-185 (Tr. 5962-5963).

I base my opinion upon my knowledge of the fact that the mill points on the north edge of the blanket are continually dismantling because their source of supply has become exhausted and that new mills are being erected continually in the southern end of the blanket along the Gulf of Mexico. That of course, will have a tendency to increase the average haul. I have nothing concrete with respect to what the mileage is other than Exhibit A-185 (Tr. 5964).

On page 5723 of the transcript Witness Schmidt objects to what he terms certain Southwestern Lines compounding their divisions. We cannot agree that a condition of that kind exists south of the junction points involved in this proceeding. While it is true the Cotton Belt and Missouri Pacific participate in joint through rates from the Southwest to Illinois Freight Association territory and in the handling of that traffic move it to Thebes, thence over their own rails to East St. Louis, and by reason of that condition are allowed agreed proportions to Thebes and additional revenue for the additional service from Thebes to East St. Louis, there is nothing unusual in that situation nor is it contrary to practices generally prevailing. Both [fol. 1438] the Cotton Belt and Missouri Pacific could, if they so elected, surrender this lumber traffic to their connections such as the Illinois Central and the Chicago and Eastern Illinois at Thebes for movement beyond that point over those lines who in turn would effect delivery at interior Illinois points to the destination lines serving the Chicago and Peoria rate territories (Tr. 5964-5965).

As to shipments handled via the routes last described, it is not our understanding there is raised any question as to the subdivision of the proportion accruing to the lines north of Thebes, and if such is the case it seems altogether improper that the divisions via East St. Louis should be brought into play. We are not advised as to the specific percentages applicable from Thebes to Illinois Freight Association territory via any junction other than East St. Louis, but assuming that via some of the interior Illinois junctions the same percentage applied as of June 24, 1918, as were applicable via East St. Louis, we do not see that those Illinois Freight Association lines that have their own rails from Thebes are here suggesting a modification of divisions through the junctions via which they have interchange arrangements, but they do ask that a change be made via East St. Louis regardless of the fact that the lines south of East St. Louis were compelled to accept, in division of joint through rates, an abnormally low local rate while that same low rate factor which the lines via East St. Louis accept did not extend to the interior Illinois Junctions. The thought is expressed as to traffic moving through a basing point and handled from the basing point by the same line and interchange made at a point beyond the basing point, that it is unfair for the lines handling such traffic to connections at an interchange point beyond the basing point, to receive its full local rate to the basing point plus the same revenue that would accrue from the basing point proper to the interchange point (Tr. 5965-5966).

[fol. 1439] As we understand this contention, if the Missouri Pacific or Cotton Belt should handle a shipment of lumber from the Southwest to Thebes, thence via their own rails to East St. Louis, the total proportion point of origin to East St. Louis should be made independently of the divisions via Thebes, but if the Cotton Belt should elect to handle traffic to Thebes and deliver it at that point to the Missouri Pacific for movement to East St. Louis for subsequent delivery to a northern line, the total proportion up to East St. Louis could properly be arrived at by using agreed factors up to and beyond Thebes and subdivide the balance north of Thebes via East St. Louis on such agreed

percents as could be determined upon by the interested carriers. We fail to follow this line of reasoning. Manifestly the Cotton Belt would not, nor could it be expected to, surrender its lumber traffic destined to points beyond East St. Louis to the Missouri Pacific at Thebes for movement to East St. Louis, nor would the Missouri Pacific surrender to the Cotton Belt at Thebes lumber destined beyond East St. Louis. Both the Missouri Pacific and Cotton Belt have rails into Thebes and from Thebes to East St. Louis and certainly they are entitled to take into consideration the entire movement over their rails (Tr. 5966-5967).

On page 5724 witness Schmidt expresses the thought that in dividing the through rate of 27½ cents in effect on lumber from the Blanket Territory to Chicago as of June 24, 1918, the lines to East St. Louis should not have received their full local rate of 19 cents. His view is the lines to Thebes should have received full local rate to the base point, plus a reasonable division beyond the basing point, reasonable division being determined on facts. The present basis of merchandise percents which allow Thebes to East St. Louis 35 per cent and north of Thebes to Chicago 65 per cent have been in effect for a number of years and [fol. 1440] was determined on the basis of mileage (Tr. 5967-8).

What other facts should come into play he does not state, but as that basis, i. e., mileage, is generally the determining factor for divisions at points east of the Mississippi and north of the Ohio River, we fail to understand why the divisions on lumber which are based in the same manner as are divisions on all other traffic, should be singled out for different treatment. It is pointed out that on traffic to East St. Louis proper or to St. Louis, Mo., the Southwestern lines absorb switching charges necessary to effect delivery at the points of destination where the lumber comes to rest, but that no such absorptions are made on through shipments, and because of that condition it is his view the full local rate south of East St. Louis should not have been the measure of the revenue south of the interchange point. In this view we are not in agreement. The rates on lumber from the southwest to Ohio and Mississippi River crossings have always been primarily and principally propor-

tional rates applicable on lumber going beyond the crossings. The reason for this is perfectly apparent from the fact that the consumption of lumber in the large and very densely populated territory north of the Ohio and east of the Mississippi Rivers has necessarily been much greater than at the river crossings proper (Tr. 5968).

In fact it can be correctly stated that the lumber adjustment to the river crossings proper has at all times throughout its history been primarily a gateway adjustment. Again, the rates from the lumber mills served by the different southwestern lines to the river crossings are the result of severe competition. In other words, these mills have for [fol. 1441] many years been in competition with each other for the sale of their products at the river crossings and in the territory beyond and this competition between the carriers serving the various producing points in the southwest long ago resulted in what the Southwestern lines have always considered to be extremely low rates from the milling points in Missouri, Arkansas, Louisiana, Oklahoma and Texas to the Ohio and Mississippi River crossings. In addition, the adjustment to the river crossings has been influenced by competition with lumber from mills in Mississippi, Alabama, Georgia and other southeastern shipping points. It follows, of course, that the rates to the river crossings from the Southwest established under these circumstances are very low rates and, as stated, were designed primarily as proportional rates to apply on traffic to the consuming territory beyond the gateway crossings. With this explanation of the rate adjustment to the river crossings, we are in accord with the following statement made by witness Schmidt (Tr. 5968-5969):

"The full local rate south of East St. Louis should not have been the measure of revenue south of the interchange point."

Clearly Southwestern lines should have been allowed in division of the rates to Chicago as of June 24, 1918, in excess of their local rate (Tr. 5969-5970).

Cross-examination:

The mileages which I have said are based upon the decision in 33 I. C. C. were in the form of an exhibit filed in that case (Tr. 5970).

That case was tried about thirteen or fourteen years ago. The exhibit was prepared in September 1913. Any substantial shift in the points of major production would make a decided difference in the mileage. As I pointed out, it is my view that this production has moved to the south, and that, of course, would have a tendency to increase the average haul as shown on the exhibit. I simply gave routings on the lumber north of East St. Louis to Des Moines and Marshalltown and used three-line routes. Those are the [fol. 1442] routes over which the rates applied. If the traffic was delivered to the Burlington or Wabash in the nature of things, they would take it into Des Moines themselves, but if the shipper should decide to route via the junctions I have named, there would not be— (Tr. 5971).

The traffic checks put into the record would show the manner and routes over which the lumber actually moves. I did not use the short line mileages south because we used the southwestern blanket group as a whole. I used the average mileage in the southwest. That information was available, but I had nothing to show the average mileages beyond East St. Louis, although I would say that there would be so little difference between the average and the actual that it would not change to any substantial degree the mileage percents as shown on the statement (Tr. 5972).

From the blanket territory via Thebes and East St. Louis to C. F. A. territory the Cotton Belt division between Thebes and East St. Louis and the divisions to the C. F. A. lines is determined by using the June 24, 1918 local rates up to and beyond Thebes. Those local rates were converted into percents and the percent applied to the rates in the blanket territory. For the service from Thebes to East St. Louis we accept 4.2 cents on C. F. A. lumber. It varies according to destination on lumber to Illinois territory. Generally it is more than 4.2 cents but I should judge from the numerous cases where we get perhaps less than 4.2 cents—to Chicago, it is 5.1, but that is again from the territory north of Chicago where we got 3½ cents a hundred pounds. Most of our lumber goes to the Chicago territory (Tr. 5972-5973).

The only difference in the earnings on C. F. A. lumber and lumber to Chicago is the method of arriving at the [fol. 1443] proportion to C. F. A. territory. The 4.2 arbi-

trary represents an average of what we earned as of June 24, 1918, from Thebes to East St. Louis, but the 5.1 arbitrary that we get from Thebes to East St. Louis on Chicago traffic is less than we earned on June 24, 1918. In other words, it does not represent 35 per. cent of the proportion going to lines north of Thebes (Tr. 5974).

B. H. STANAGE was thereupon recalled as a witness and testified as follows:

Direct examination:

My rebuttal testimony will cover rebuttal by the Western Trunk Lines of evidence that I introduced at the Galveston hearing. On page 5703 of the record witness Grace referred to my Exhibit A-199, page 114, and made the following statement:

"The earnings received by use of W. T. L. proportional rates from Mississippi River crossings East St. Louis and north are only a portion of the earnings on the through traffic originating beyond" (Tr. 5974).

I do not agree with this statement, as, for example, on a shipment moving from Pittsburgh, Pa., to Des Moines, via the Erie Railroad, Chicago, Ill., Chicago & Northwestern Railway, Clinton, Iowa, and C. R. I. & P., the lines up to the Mississippi River are considered C. F. A. lines, and the lines west of the river are Western Trunk Lines. There are no through published rates in effect on this traffic; and in dividing the revenue on shipments moving as described, the lines west of the river (the W. T. Lines) receive their proportional rate used in making the combination rate. The proportion received for the haul east does not properly enter into the matter, as that haul is considered in C. F. A. territory. We have compared [fol. 1444] the earnings of the Western Trunk Lines on C. F. A. traffic with earnings of Western Trunk Lines on traffic to the southwest. I desire to add that the same line hauling traffic east of the river does not necessarily haul the shipment up to St. Louis or crossings north thereof and deliver it to any Western Trunk Line to handle west,

and for such service the Western Trunk Lines receive the factor used in making the through combination rate (Tr. 5975).

I have not understood that the application of these proportional rates to the river is dependent on the same line handling it through. I did not look it up to ascertain whether or not that was a fact.

Referring to my exhibit A-199, it was not true that in every instance the earnings of the so-called Western Trunk Lines were augmented by the so-called C. F. A. earnings. I contrasted the revenue for certain hauls of certain lengths in Western Trunk Line Territory on C. F. A. traffic to Western Trunk Line points with the earnings of Western Trunk Line roads on traffic interchanged with the southwestern lines. I did not, for instance, show the joint revenue on behalf of the so-called Western Trunk Lines for their service east of the river. The Western Trunk Lines would receive additional revenue for that haul if they shipped both east and west of the Mississippi River. Taking the Milwaukee Railroad for example. Hauling a shipment to the Mississippi River and then all the way through to Chicago, the earnings which I show in my exhibit up to the Mississippi River do not represent the amount of money that the Milwaukee actually receives for hauling the shipment from where it received it up to Chicago where it delivers it to the Eastern lines (Tr. 5976-5977).

[fol. 1445] On page 5704 witness Grace made the statement that "As to the comparison between the earnings of Western Trunk Lines east of Kansas City or St. Louis out of through rates to Oklahoma points and the earnings out of the proportional rates from Omaha and Des Moines to Cairo, no consideration was apparently given to the measure of the rates." My exhibit A-199, page 114, shows a comparison of the earnings of the Western Trunk Lines from Western Trunk Line territory to Oklahoma via Kansas City or St. Louis with the earnings from Western Trunk Line territory to southeast, C. F. A., etc., and while the measure of the proportional rates Omaha and Des Moines to Cairo (for beyond) may be relatively lower than the through rate Chicago to Oklahoma, at the same time the proportional rates Omaha and Des Moines to Cairo

are the proportions accepted on traffic to the southeast, subdivided via St. Louis, and represent the exact earnings of Western Trunk Lines on southeastern traffic as compared with the earnings on southwestern traffic (Tr. 5977-5978).

What we tried to show and have shown is that the Western Trunk Line earnings are as high or higher on traffic to or from the southwest as to or from other territories. On page 5727 of the record witness Schmitt made the statement that "There is nothing in witness Stanage's testimony, nor in the record, to enable one to determine what influences brought about the present basis for divisions." This refers to divisions on traffic to and from southern Missouri, and we cannot pass this statement without calling to the attention of the Commission the fact that there is an explanation in full of the influences which brought about the present basis of divisions. See testimony on pages 5457 to 5461; also my Exhibit A-199, pages 29 to 42 and page 97. These show the through rates were based upon combination and were divided as made. The Western Trunk Lines received as their division exactly what they originally requested to be added to the rates to or [fol. 1446] from the basing points in constructing the joint through rates (Tr. 5978).

On page 5729 Mr. Schmitt made the further remark, that "The southwestern lines had played one line against the other, the result in the end being that the revenue north on practically all classes of traffic, to and from this particular territory, is far too low." It is not a fact that the Southwestern lines played one line against another, and to prove this contradiction will call attention to the fact that the Illinois lines have for years insisted upon arbitraries east of East St. Louis and Thebes and have provided such arbitraries in their own issues, such as I. F. C. D/S 3 and 5. These arbitraries in the I. F. C. D/S No. 3 accord the lines north of East St. Louis, Kansas City, Mo., revenue. The Illinois lines have always advocated as their divisions a proportion of the Missouri River rate. The arbitraries in I. F. C. Division Sheet No. 5 have been in effect for a great many years. We have in our file Horace Tucker's (Chicago and St. Louis Traffic Association) proportional tariff No. 1, which indicates pro-

portional rates between Chicago-Milwaukee and East St. Louis, Thebes, etc., applicable on traffic to or from points in Eastern Arkansas and Southeast Missouri. I did not attempt to check back to the first issue, but they have been in effect for a great many years (Tr. 5978-9). On pages 5729 to 5730 Mr. Schmitt further stated: "It does not seem at all fair nor proper, as I see it, for the Southwestern lines to be allowed practically their local rates and the Western Trunk Lines the difference between such local rates and through rates." This remark pertains to divisions on traffic between Chicago and points in southeastern Missouri. In my Exhibit A-199, pages 29 to 42, I have given a history of these rates showing that the proportional rates east were added to the rates west of either East St. Louis, St. Louis or Thebes, and naturally [fol. 1447] the rates divided as made, that being the customary practice. The Western Trunk Lines are receiving the old factors increased and decreased in accordance with the general rate changes, and we feel, therefore, that the Western Trunk Lines are receiving what they themselves demanded and are not taking the balance—I do not mean that in this case. I favor making these divisions on the basis of a rate prorate north and south of the junctions of the rates which would apply if the through rate was not in effect. I make this point: I stated in all of my testimony the history of these rates and briefly stated, it is this. Dealing specifically, now, with classes and commodities from Chicago to points in southeastern Missouri, those are not published rates. They have only been in effect for probably 10 or 12 years as published joint rates, published by Chairman Leland, and also to some extent to destination territory in the issues of the destination lines, such as the Cotton Belt, Missouri Pacific and Frisco (Tr. 5979-5980-5981).

In publishing those joint through rates we combined the proportional rates to the river crossings from Chicago to East St. Louis and St. Louis with the local rates south, and we divided those rates the way we constructed them, as is the custom. Had we not published the joint through rates for the benefit of the shipping public the individual factors would have applied had any shipments moved, and the revenue of each line would have been based on the factor

that was in effect to or from the gateway where the traffic was interchanged. If there is no proportional rate north or arbitrary north, all that we have to make our through charge would be the local rate north. I do not advocate the theory of making divisions for application in this case where the through rate is not made by the application of our local rate south plus the proportional north, on the basis of the locals that go to make up the through rate which would apply (Tr. 5981).

[fol. 1448] I think we are justified in asking that the lines north of Thebes—I will stick to Thebes for example—that any rates based on the junction on Thebes should develop that way. After those rates are established for the lines north of Thebes to cancel their proportional rates to or from Thebes and then because of that ask for a readjustment of the divisions of the rates previously constructed by using their former factor, that is not proper (Tr. 5982).

If there is no proportional rate in effect, the local rate would be the measure of the division, but I am not advocating that rates based without regard to the combination should divide on the rate prorate. I am merely defending the history of these rates and divisions in connection therewith that I put in the record as against general statements that they are not fair, and things of that sort, which are not supported by probative facts. I am not dealing with lumber. My road hauls lumber, but I do not care at this time to express an opinion concerning lumber. I endorse what Mr. Lehmann said about lumber (Tr. 5983).

I was dealing with the question of the rates dividing as made and the fact that the lines north of Thebes, for example, were called upon to accept the balance. To the contrary, the southwestern lines are taking the balance. When the through rates to southeastern Missouri points were reduced to observe the Arkansas rates as a maximum, the reductions were taken care of in full by the Southwestern lines as the Western Trunk Lines insisted on their usual arbitraries to East St. Louis or Thebes.

On pages 5730 to 5732, inclusive, of the record, Mr. Schmitt stated that he had reached the conclusion that the present so-called proportional rates on Missouri traffic can be considered no differently than the so-called arbitraries

or differentials Chicago over St. Louis as published in all tariffs naming rates between Chicago and Arkansas, Texas, etc., and should not be considered the measure of the al-
[fol. 1449] lowance to the lines north of Thebes or East St. Louis, Ill. All this history of the proportional rates east of East St. Louis and Thebes cannot change the divisions of these rates as the rates are based upon a sum of two factors—one factor the proportion Illinois lines demanded and the other the local rate west, and that basis still exists (Tr. 5984).

The remarks on page 5732 that the proportional rates east should be considered "differentials", "and should not be considered the measure of the allowance to the lines north of Themes or East St. Louis, Ill.", cannot carry much weight in view of their being published and filed with the Commission in I. F. C. Tariff No. 506, W. E. Hosmer's I. C. C. No. 17 and later issues. It is the common practice for carriers to divide rates based by combining two factors, whether local or proportional rates, as made. In other words, each carrier receives as its division the rate or factor used in constructing the joint rates. It is true the Illinois lines would cancel these proportional rates, effective March 15, 1926, leaving only full local rates in effect, east, but, nevertheless, this cannot with any degree of reasonableness affect the divisions based upon the old proportional rates. On page 5733 the statement is made: "If on Texas, Louisiana and Arkansas the differentials are admitted to be too low for divisional application, the same situation should be applicable to Missouri." This is not true, as I have pointed out. These rates between Illinois territory and southeast Missouri are not based on differentials over St. Louis, but were based upon combination on the Mississippi River gateways. The rates were so published as through rates with the sanction of the Illinois lines, and divide as made (Tr. 5984-5985).

[fol. 1450] On page 5733 the statement is made: "The fact that these proportional rates are so materially less than the local rates proves conclusively in my opinion (witness Schmitt speaking) that they are not proportional rates literally, but merely arbitraries as stated, used in the construction of through rates to Missouri." These propor-

tional rates were the factors which were added to the Western rates to make through rates, and regardless of the relative measure of the same as against their full local rates, the Illinois lines must accept them in division. The proportional rates were promulgated by the Illinois lines and as previously shown have been accepted as their proportions. On page 5734 witness Schmitt stated: "The Illinois lines, generally speaking, in the past have never been consulted as to the rates to be published from Chicago." This is not a correct statement. The Southwestern lines have had concurrences from Illinois lines, also letters agreeing to the rates and divisions (Tr. 5986).

I did not attempt to burden the record with copies of letters agreeing to the rates and changes that we were able to check up in our files, but I merely wanted to mention at this time for the benefit of the Western Trunk Lines that General Freight Agent Lutz' file F-417-17-GG, dated Chicago, March 15, 1910, over sixteen years ago, requested that the Southwestern Lines instruct Chairman Leland to revise certain rates from Peoria which were at that time higher than the combination on Cairo or Thebes. We could have dug up several hundred references, and I have some that I will read later into the record, but I am not going at this time to attempt to quote all of them. I think the cancellation of those proportions became effective in March, 1926. I do not know how long they had the matter up. I do not think it [fol. 1451] took very long relatively. It takes several months to get any change considered and approved. However, the publication of those proportional rates is in the hands of the Western Trunk Lines themselves. The Southwestern Lines have nothing to do with it. The Missouri Pacific happens to be an Illinois line. I do not know whether it or the Cotton Belt objected (Tr. 5986-5987).

The Illinois lines were freely consulted concerning the publication of these rates, and there has never been any complaint filed against them by any Illinois line. It seems strange that the Southwestern lines have had in effect for the last twenty years published rates not concurred in by their northern connections; the matter now being considered for the first time.

On page 5735 witness Schmitt calls attention to statements I made concerning the proportions exacted south of

East St. Louis where the proportional rates from Chicago to Thebes, for example, are prorated via East St. Louis. He makes this statement: "The Frisco was not a party to the tariff naming these arbitraries to or from Thebes, yet it has exacted, as the exhibit indicates, 35 per cent of a rate in which they do not participate, nor do they handle traffic through the base point." In the first place, his case does not involve any particular line, and my Exhibit A-199, pages 29 to 41, shows the basis for all Illinois lines and all Southwestern lines, including the Frisco. The divisions up to East St. Louis on traffic routed via the Frisco have been and should be the same as via other lines competing for the traffic. When the Frisco meet the rates of the Thebes route lines through East St. Louis, they are entitled to the same proportions as such Thebes route lines—no more and no less (Tr. 5988-5989).

If the Frisco demanded a greater proportion, the Illinois lines would not join them in the competitive rates. If they [fol. 1452] accepted less in meeting the competitive rates, it would simply mean that the Thebes route lines would meet the divisions thus established by the Frisco. As can be seen, the Frisco simply met the rates and divisions applying via routes such as via East St. Louis, M. & O., Illinois Central, Missouri Pacific and Cotton Belt through Thebes, and there certainly can be no reasonable objection from any line to establishing divisions on a uniform basis through the same gateway via all lines. These are not theoretical divisions. They are actual divisions and were concurred in by Illinois lines. We get this business from the lines at East St. Louis or deliver it to them, and we exact and apply the same divisions as though it moved via the East St. Louis route lines to or from East St. Louis. The C. B. & Q. Railroad authorized 65 per cent of Thebes arbitraries via East St. Louis and the Frisco, and other lines in their division sheet No. 9 for C. B. & Q., G. F. O. No. 6382-F, which is their number on Southwestern Lines Tariff No. 68, and this has been effective since November 1, 1915. A similar basis has been in effect for years via other lines (Tr. 5989-5990).

We have letters from the Illinois lines, specifically concurring in the basis of 65 per cent of the Thebes arbitraries

on traffic to Southeast Missouri. In support of that statement I want to detail into the record the file references covering a few. I will just mention the railroad and the general freight office file number, what railroad it was addressed to, and the date, just in order that the Western Trunk Lines might check up my information and see if it is correct.

[fol. 1453] The Witness (reading):

Letter from	Addressed to	Date.	File No.
C. & A. R. R.	Mo. Pac. Ry.	11/ 9/14	D-36630-VV
C. & A. R. R.	St. L., I. M. & S. Ry.	12/17/14	D-40904-VV
C. & A. R. R.	St. L., I. M. & S. Ry.	2/10/15	A-36651
C. & E. I. R. R.	Mo. Pac. Ry.	3/19/15	985-Mo. Pac.
Mo. Pac. Ry.	C. & A. R. R.	8/19/16	C-2784
C. & A. R. R.	Mo. Pac. Ry.	8/23/16	D-36651
Mich. Cent. R. R.	Mo. Pac. Ry.	3/27/17	
Wabash Ry.	Frisco Ry.	3/30/17	P-11713
C. & E. I. R. R.	Frisco Ry.	12/18/17	341-374-BU

(Tr. 5990.)

I wish to read into the record one letter in detail. It is a letter from Chief of Tariff Bureau J. A. Behrle of the Chicago & Alton Railroad Company, dated Chicago, Ill., November 9, 1914, his File D-36630-VV, addressed to Mr. W. H. Alexander, Assistant General Freight Agent, the Missouri Pacific Railway Company, St. Louis, Mo.

"With reference to Division Sheets issued by your company in connection with Southwestern Lines Tariff 68-Series, the rates in this tariff we understand are practically all constructed on the East St. Louis, St. Louis or Thebes combinations, and we are willing to divide these rates as made with a proviso that your company accept your local rate south of East St. Louis as a maximum.

"Will you please advise if you will issue division sheets to this tariff on this basis, advising.

"Yours truly, (Signed) J. A. Behrle, Chief of Tariff Bureau."

There is a letter almost twelve years old where they sought to establish a basis of rates and to divide them. I [fol. 1454] could have brought hundreds of similar illustrations dealing with specific rates, covering tariffs in general, and I have got others here, but it is useless to detail them all into the record (Tr. 5990-5991).

I just want to comment on one from Mr. T. O. Jennings of the Chicago & Eastern Illinois Railroad to Mr. W. B. Knight of the Missouri Pacific, in which he asks that the Missouri Pacific division basis No. 3586-A to Missouri Pacific Freight Tariff No. 2258-Series be revised on account of some changes in the proportions so as to reflect the present combination basis.

On page 5736 witness Schmitt comments upon the relative proportions of joint through rates received by the Western Trunk Lines and the Southwestern Freight Bureau lines calling attention to the larger proportion accruing to the Southwestern Lines. The percentage comparisons of divisions to Poplar Bluffs and Campbell as representative of Southeastern Missouri shown on page 2 of Witness Schmitt's Exhibit A-250 do not prove that the Western Trunk Lines are receiving insufficient revenue, as we have already explained that the proportional rates, which were their divisions, in effect June, 1918, have been increased and decreased to correspond with the general changes in the through rates (Tr. 5991-5992).

The greater percent of increase in the division of the southwestern lines is the result of increases in the factors west of the river under the 9702 scale. The percentage of increase East St. Louis to Thebes is shown as 67.3 per cent. This should read 53.7 per cent, as naturally there can be no great difference in the percent of increase in this proportion as compared with the percent of increase Chicago to East St. Louis, as the total proportion to Thebes has always divided on basis of 65 per cent north and 35 per cent south of East St. Louis.

The comment of witness Schmitt in connection with pages 3 and 4 of his Exhibit A-250 as divisions being unfair to [fol. 1455] lines north based upon ton mile earnings does not indicate the divisions are unfair as we have previously shown the divisions accruing to the Illinois lines is of their own making. We gave the Western Trunk Lines the factor which we used for their account in constructing the joint through rates.

On page 5737 witness Schmitt read into the record extract from the opinion of the Interstate Commerce Commission in Docket 11825. I wish to make this observation concerning that quoted portion. That referred to a case involving

divisions between the Chicago & Eastern Illinois and the Frisco via Chaffee, Mo., and dealt with the divisions on coal. The divisions on coal via Chaffee have not been brought into issue in this proceeding by the Western Trunk Lines, and the portion of the Commission's decision which he quoted is not, in my opinion, applicable to other than the specific commodity dealt with by the Commission (Tr. 5992-5993).

The comment by witness Schmitt on pages 5737 and 5738 regarding pages 5 and 6 of his Exhibit A-250, corresponding with page 42 of my Exhibit A-199, in my opinion indicates that in cases where rates make on Thebes combination these rates divided as made and where it was necessary for the southwestern lines to observe a lower than combination rate, they did so and allowed Western Trunk Lines their full rate factor, placing the full shrink upon the southwestern lines. The comparative length of haul has nothing to do with the divisions under the circumstances. Those pages of Exhibit A-250 dealt with the subdivision of the revenue on the so-called 9702 commodities; Witness Schmitt calling attention to what he termed the disparity of revenue return in instances where our proportions west of Thebes were based on the 9702 decision and yielded a substantially greater revenue return per mile and per ton mile because of our shorter hauls than the proportional rates which the lines north of Thebes had in effect and which were used in constructing the joint rates from Chicago to points in south-[fol. 1456] east Missouri or canned goods and other commodities dealt with in the 9702 commodities decision.

We take the position that those comparisons have no bearing, because had we not published the combination basis for the convenience of the shipping public they still would be getting their lower proportions relative than we would earn (Tr. 5994).

Commenting further on that exhibit, witness Schmitt on page 5738 of the record made the statement that "there is no agreed basis of divisions" on this traffic. We cannot agree with this statement. Our previous testimony shows clearly that there is, and the Illinois lines are now attempting to repudiate the basis. I say that there is an agreed basis of divisions published in a division sheet. We have got individual division sheets and then we have the Illinois

Freight Committee 506 that has been used as a division sheet ever since it has been issued, except subsequent to the time when the sheet was cancelled on filing with the Commission. Now the Illinois Freight Committee lines repudiate it (Tr. 5995).

Prior to the cancellation of the proportional rates they used the proportional tariff as a division sheet. Subsequent to the cancellation of that issue, some of the Illinois lines have taken the position that the divisions are in dispute. Where the proportional rates were in effect, both lines applied it as a division. It has been used for fifteen years, to my personal knowledge. It never was questioned.

In connection with the record, page 5738, concerning page 97 of my Exhibit A-199, which states the basis for the through rates to Cuba, Mo., and other points covered by Frisco tariff 1298 I. C. C. 8005, the addition of the 54 cent scale (Kansas City revenue) on 1st class north of East St. Louis combined with the local rates west in making the through rates, was published specifically several years ago, and while we do not have the old authority files for us at this time, we have no record of any objections from the [fol. 1457] Illinois lines. The rates were published by the Frisco in connection with all lines under proper concurrence form, and we have no record of the Illinois lines objecting, as I previously stated. As a matter of fact, simultaneously with the establishment of through rates to these Missouri points, the Illinois lines amended their division sheet No. 3 and added, Cuba, Mo., and other Missouri points, indicating specifically that the specific divisions shown therein were agreeable to them, and we feel that this indicates concurrence in full (Tr. 5996-5997).

The Chicago, Burlington & Quincy Railroad, by letter dated September 25, 1925, file 900, asked that we provide rates from Clinton, Iowa, on the Chicago basis, they agreeing to accept Chicago divisions. The Chicago divisions are the specifics shown in Illinois Freight Committee Division Sheet No. 3. This is another instance of where the Illinois lines have specifically concurred in the rates and divisions which we published. The Burlington in this instance indicated willingness on their part to extend the Chicago basis to other points.

On page 5740 witness Schmitt makes the following remarks concerning page 98 of my Exhibit A-199: "Allowance

Chicago to East St. Louis on New York, St. Paul, Buffalo, etc., reflects an actual mileage prorate, so the comparison made is not at all pertinent." It is hoped that the Commission will carefully examine this exhibit. This page of Exhibit A-199 shows a comparison of the Western Trunk Lines' earnings on southwestern traffic versus what the Western Trunk Lines earn on traffic to or from other territories. We feel that irrespective of how the divisions to or from other territories are made, these comparisons are pertinent to this case, as the exhibit shows conclusively that the Western Trunk Lines' earnings derived from southwestern traffic are relatively higher than on other territorial traffic (Tr. 5997-5998).

[fol. 1458] We have shown on the page indicated that in connection with southwestern traffic the earnings to Western Trunk Lines exceed their earnings on traffic handled from and to other territories for identically the same character of service. In connection with witness Schmitt's comments concerning the data shown on page 8 of his Exhibit A-250 it is my intention to reply to his comments separately as to each commodity considered. We found what we thought were errors in some of the figures on this sheet, and in order that the Commission might have before it information as to our understanding of the correct data we have reproduced page 8 of witness Schmitt's Exhibit A-250 showing our understanding of the correct figures, substituting Cedar Gap, Mo., instead of Marionville in his examples showing the rates and divisions on apples from Missouri points to Chicago. I offer the statement in evidence (Tr. 5998).

The statement described by the witness was received in evidence as Exhibit A-288.)

[fol. 1459] I will leave that subject with the explanation of our understanding of the basis for rates and divisions on these commodities shown on this exhibit. Broom corn. The comments I shall make deal with the data shown by Mr. Schmitt as compared with what I understand the figures to be. On broom corn the proportion of 20.4 cents beyond East St. Louis is in error, both in Exhibit A-250 as well as Exhibit A-199, page 116, 6th item, and should be corrected to read 15.5 cents. *According to our records the*

proper figure is 15.5 cents. According to our records the proper figure is 15.5 cents which is the old 10-cent rate East St. Louis to Chicago territory point, such as Paxton, Arcola and Sullivan, Ill., which are the real consuming points of broom corn, increased and decreased by general rate changes. The various lines' tariffs show that in making through rates from Southwest to Chicago an arbitrary of 15.5 cents will be added to the St. Louis rate. To bear out our statement I will cite reference to the rate of 16 cents East St. Louis to above-named Illinois points in items 450 and 455 of Chicago & Eastern Illinois Railroad Tariff No. 600-A, I. C. C. No. 165. The difference in the 16-cent rate east and the 15.5 cent arbitrary is the result of disposition of fractions and the 5 per cent advance in Illinois rates which was not taken up in the through rates (Tr. 5999).

This indicates that Illinois lines receive 97 per cent of their local commodity rates as compared with Southwestern lines' 90 per cent of their local rates, first deducting the bridge toll. The Illinois lines recently cancelled the 16-cent rate East St. Louis to Chicago territory points, effective April 25, 1926, but this does not change the comparative feature as the through rates were made on the basis indicated, that is, Illinois lines adding 15.5 cents to the local rates to St. Louis; and it is only the cancellation of the commodity rates east that makes it possible for the Illinois lines to point out what appears to be glaring reductions in their revenues as compared with their existing [fol. 1460] class locals. The 16 cent local rate shown on broom corn is not now in effect. I have not the through class rate. My point is this. We established the rates we are defending on a definite basis having regard to certain arbitraries required by our connections. I use that word "arbitrary" as meaning a factor to be added to some other factor to construct a through rate and then dividing as they make them (Tr. 5999-6000).

In referring to defending rates, I meant divisions. It is true that we have cancelled out the commodity rate on broom corn from East St. Louis to Chicago, possibly due to no movement, because there is none produced at East St. Louis, and we are comparing a showing of figures that are indicated on this exhibit based on the factor which was contributed by the East St. Louis-Chicago lines when

the joint rates were constructed to show the relation of that factor to your local rate on the commodity at that time and our local rate on the commodity at that time. That is the only instance I can recall where we cancelled out the rate.

I will next deal with the rates on butter, eggs and poultry on this exhibit. The local rate north of East St. Louis is 53 cents, the full third class, subject to a minimum weight of 20,000 pounds. The local rate west of St. Louis is 69 cents, a commodity rate, subject to a minimum weight of 10,000 pounds. The third class rate on the lines west is 76 cents subject to a minimum weight of 20,000 pounds (Tr. 6001-6002).

The percent of the local rate west is shown as 62 per cent, but should be 61.7 per cent based upon use of proportion west of East St. Louis, 51.9, from which should be deducted 6 cents terminal bridge, making net proportion 46.9 cents compared with the local third class rate of 76 cents, which figures 61.7 per cent. We have used here the third class rates both east and west of East St. Louis, as it is not proper to compare the class rate east with the [fol. 1461] commodity rate west. The through rates on dairy products in Western Trunk Line Tariff No. 18, Agent E. B. Boyd's I. C. C. No. A-1357, applying from Missouri, Kansas and Nebraska points to Chicago, etc., were originally based 15 cents under the third class rates with the Kansas City rate as a minimum. The rates so made were increased and reduced under the general changes and also were subject to a revision so far as interstate rates were concerned in line with the advances made in the second, third and fourth class rates from the Missouri River under I. C. C. Docket 12709. Under this adjustment the third class rate from Kansas City to the Mississippi River was advanced from 53½ cents to 60½ cents. Adhering to the basis and to avoid 4th section violations from points south and west of Kansas City, the rates on dairy freight were advanced to the Kansas City rate as a minimum, and the Chicago rate being the third class differential of 15.5 cents over Mississippi River (Tr. 6002-6003).

All of these rates are legislated through the medium of the Western Trunk Line Committee, who also issue the tariffs. The 69-cent rate was a commodity rate. We did

not compare that commodity rate west of the river with the class rate east, because we contend that that kind of a comparison is not proper. We compared our class level west with your class level east. The joint through traffic is based on a differential under the third class. The 69-cent rate is an effective commodity rate, but I have inserted the class rate. As I stated before, we have compared in making our percentage of the through rate, the percentage of each line's local. We have compared class rate with class rate, and not class rate with commodity rate (Tr. 6003).

[fol. 1462] I think that a comparison of the commodity rate north and south is all right. We used that in the broom corn case. We used commodity with commodity wherever we had it. But the lines north in the broom corn case cancelled their commodity rate. In that instance we used the former factor which was the old commodity rate—commodity rate with commodity rate. The earnings I show for the Southwestern Lines are up to St. Louis. In other words, we have compared our net factor in addition with the Western Trunk Line's net factor in addition. There are no bridge tolls in all of these cases. I did not compare the Chicago switching absorptions with the bridge situation. I would not say that it is not a legitimate reduction unless it is a bridge toll, but those two are not comparable (Tr. 6004).

Both of those absorptions cost money, but the Chicago switching absorption involves a competitive situation. If I were going to make such a comparison, I would also take in the points of origin. We do not get the bridge tolls back. It is not reciprocal in any sense.

Examiner Disque here said that he did not see why the bridge charges should be deducted any more than the charge for hauling stuff over a mountain. That in one case the money was paid to another corporation and in another case out of the carrier's own pocket. That is money gone in either case. To which the witness replied that the bridge toll was paid charges for the haul over the bridge and that it should be deducted because it was paid to a third railroad.

Mr. Muckley: You are trying to find some comparable basis between their revenue and others?

The Witness: Yes, sir; that is the reason (Tr. 6005).

[fol. 1463] If there is any situation where lumber for example were moved via the Missouri Pacific up the east side and given to the Terminal at East St. Louis to go to Des Moines, Iowa, and the Wabash takes it north, I think the allowance made in that case might well be deducted.

I will now deal with lime, the third item on Exhibit A-288. We are unable to check the local rate beyond East St. Louis of 14 cents as shown by witness Schmitt, but find a commodity rate of 12½ cents, C. & A. tariff No. 13000-J, I. C. C. No. 1669-J, from Alton, Ill., which is an East St. Louis rate point; and if there was a movement from St. Louis-East St. Louis this 12.5 cent rate would undoubtedly be published therefrom, which indicates a division of 10 cents beyond East St. Louis would represent 80 per cent of such local.

The following statement by Attorney Towner is copied verbatim from the transcript of testimony:

Of course I cannot testify—although I have been doing it continually; I recognize my limitations in that respect—but I am advised that that 14 cents is contained in Chicago & Eastern Illinois Tariff I. C. C. 158 now on file with the Commission; and without disputing your statement that you could not find a rate, would you mind checking that between now and tomorrow and let us find if that rate of 14 cents is correct? I have constitutional objections to having a rate from Alton applying from East St. Louis applied to traffic from Chicago (Tr. 6006).

(An informal discussion of the record followed this statement.)

I next deal with spelter, the fourth item. The figures are correct except that the proportion west, of 17.7, includes 2 cents bridge, making the net proportion west 15.7 or 89.7 per cent of the local rate. This makes a change in the ton mile earnings to 9.4 mills. The Southwestern Lines now [fol. 1464] get 17.7 cents, and their local rate is 17.5 cents, their division being .2 of a cent greater than their local rate. I arrive at the fact, with my statement that the division is

only 73.8 per cent of the local rate, by deducting the bridge toll from the 17.7 factor. If I did not deduct the bridge, our division would be slightly over 100 percent of the local rate. The rates on spelter were based on a factor which the lines north of East St. Louis agreed to accept. The Burlington was the first line to name a factor of 5 cents north of East St. Louis to the Illinois smelters (Tr. 6007).

It started first on ore. They named that low factor on ores north of East St. Louis to induce the movement of the Joplin zinc ores to their smelters so they would get the outbound product and build up their section. They named that outbound factor and we constructed the joint through rates by adding our factor of what we wanted. The division is now 6.3, but when you look at your earnings per ton mile of 4.5 against our 9.4 it pays to bear in mind the history of these divisions and the present rates. They were established years ago, and because of that situation or condition that you folks got into with your eyes open we are now criticized because our revenue return happens to be a lot greater, relatively so, considering relative service. The data I gave a moment ago concerning the movement of lime, shown in the third item, also applies to the fifth item of Exhibit A-288. The rate is in the same C. & E. I. tariff heretofore referred to.

I will next take up tripoli, the sixth item on this exhibit (Tr. 6008).

The figures on page 8 of witness Schmitt's Exhibit A-250 are correct, except that in figuring the percent of local rate assessed he should have deducted 2.2 bridge from the proportion of 14.2, making a net proportion of 12 cents or 72.7 [fol. 1465] per cent of the local rate instead of 86 per cent. Low commodity rates are necessary on this commodity to permit a free movement in competition with silica from Illinois and Nebraska. After a good deal of controversy involving these rates in I. & S. Docket 1862 the Southwestern lines approved a rate on tripoli of 16½ cents to St. Louis and made it effective June 25, 1924. This rate was made to compete with other commodities of similar character. In due course the Western Trunk Lines published rates to Chicago territory on basis of 7.5 cents class C differential over St. Louis, resulting in a rate of 24 cents now

effective. The June 24, 1918, rate was 19.5 cents to Chicago. The Illinois lines approved a basis of percentages under which the lines beyond East St. Louis receive 4.1 per cent, first deducting bridge. These same lines handle silica from Tamms, Ill., to Chicago at a division of 64.9 per cent of a rate of 13 cents, or 8.4 cents per 100 pounds, and we feel that as this is a highly competitive commodity the Illinois lines should be willing to reduce the present division to a basis of 8.4 cents on tripoli from Missouri points (Tr. 6009-6010).

In other words, on our tripoli they require 12 cents north of East St. Louis while requiring 8.4 on tripoli from Illinois points. From the Missouri points, Springfield, Missouri and west, the local rates to St. Louis and East St. Louis are the same. In those cases where that situation exists, and I deduct the bridge toll in figuring the divisions, I am not setting up a theoretical local rate to East St. Louis-St. Louis plus the bridge.

I will next take up apples. The election of Marionville, Mo., as representative of the adjustment of divisions from Missouri points is not consistent, as the rates from that point were put on the Rogers, Ark., basis to Chicago of 55 cents to comply with the 4th section. This rate is higher than the through 5th class rate of 49.5 cents and also in excess of St. Louis combination, which figures 23 cents plus [fol. 1466] 21.5 cents, or 44.5 cents. In addition to this, Mr. Schmitt's figures are in error. He shows his local or 27.5 cents, but the correct figure is 21.5 (Tr. 6010).

Other errors exist, but as above explained the example should be stricken out. A more fitting point to select would be Cedar Gap, Mo., to Chicago. Cedar Gap is one of the largest apple producing points in southern Missouri. Using this point the figures shown on Exhibit A-288 reflect the proper situation. I check the rate north of East St. Louis which Mr. Schmitt shows as 27½ cents to be 21½ cents. I got that from Boyd's I. C. C. A-1620. But my file does not indicate whether it is a class or a commodity rate (Tr. 6011).

I do not know whether that is the Illinois maximum scale. I know that we got the rate out of the tariff on file with the Interstate Commerce Commission, which, as I understand it, was not confined in its application to intrastate traffic. In other words, it was interstate tariff. I did not check

it to find out whether that was the fact; but it was checked under my direction by a very competent man.

The rate is not the same from Cedar Gap, Missouri as from Marionville. So that it would necessarily follow that there is a difference between my results and Mr. Schmitt's results. His example did not look properly representative. There are several inherent defects in it, and we picked out one that we thought was representative. That is all. I am not finding any fault with his example otherwise, other than it does not mean anything. That is the local point on the Frisco, right in the heart of the Ozarks.

Q. With reference to the eighth item, butter, the figures appear to be correct from Willow Springs, Mo., to Chicago, but Mr. Schmitt has used his third class local of 53 cents in comparing the divisions to the locals, but for the southwestern lines he uses a local commodity rate of 63 cents while he [fol. 1467] should use third class rate of 79, comparing the class rate west with the class rate east. The corrected data is shown on Exhibit A-288.

By Mr. Towner:

Q. Let me ask you one question on that. If you had a shipment of butter from Willow Springs to St. Louis, what would the rate be on that—63 cents or 79 cents?

A. 63 cents.

By Mr. Larimore:

Q. Have you a commodity rate east?

A. No, sir (Tr. 6012-6013).

The next items refer to roofing, prepared roofing. We checked the correct through rate as 36 cents from Chicago as published in Leland's I. C. C. 1795, instead of 34 shown by Mr. Schmitt, and we have likewise checked the Western factor local rate as 28 cents instead of 26, published in the same Leland tariff. In connection with the canned goods items we checked the through rates 49½ cents instead of 41½ and the factor west of St. Louis 31½ instead of 26½, published in Agent Boyd's I. C. C. A-1357. This issue likewise names rates on some of the other items shown on Exhibit A-288 (Tr. 6013-6014).

In connection with the last item, tin cans, we have shown in Exhibit A-288 what we understand the correct basis to be. The Commission in I. & S. Docket 2107 approved rates higher than 4th class rates on this traffic—tin cans are classified 4th class—on account of lower minimum weight of 12,000 pounds applying to the commodity rates as compared with regular classification minimum weight of 14,000 pounds. Provision is made in I. F. C. Division Sheet No. 3 to the effect that where commodity rates are established the rates will divide on a revenue prorate, using class rates and divisions as factors. Inasmuch as the commodity rate in this case is higher than 4th class, the Illinois lines receive in excess of their fourth class arbitrary of 19 cents. This is proper, as in instances where commodity rates are established they are generally lower than the class rates on [fol. 1468] that commodity, in which case such lower commodity rates divide on a revenue prorate basis, using class rates and divisions as factors. On page 5741 of the record witness Schmitt makes several remarks concerning the data shown on pages 100 to 111 of my Exhibit A-199 which would give one the impression in reading the record that at present the C. F. A. lines are being allowed full locals east in the division of through rates based differentials over St. Louis, but a review of the pages in question will show that this is not the case (Tr. 6014-15).

Take, for example, page 105 of my Exhibit A-199, the first class rate Detroit to Tulsa is $2.435. The differential over East St. Louis is 68.5; the division to East St. Louis is 72.5 or 72.1 per cent of the local rate, Detroit to East St. Louis, and 105 percent of the differential. The local to East St. Louis is $1.005. The division west is $1.71, or 97.7 per cent of the local. In comparison with the above we will take the first class rate Chicago to Tulsa. Through rate, $2.05; differential over St. Louis 30 cents; division to East St. Louis 54 cents, which is 88.3 per cent of the local rate and 180 per cent of the differential. The local to East St. Louis is 79 cents; the division west is $1.51 or 86.2 per cent of the local. The above figures show the C. F. A. lines receive 72.1 per cent of their local and the allowance is 105 per cent of the differential. The Chicago lines receive 68.3 per cent of their local, but this is 180 per cent of the differential added to the rate. This indicates that the Southwestern lines must

make a greater shrink in their revenue on Chicago traffic than on C. F. A. This is clearly indicated by the comparison of Southwestern Lines local rate with their earnings on this traffic. On C. F. A. traffic the percent of local west is 97.7 per cent, while on Chicago traffic it is but 86.2 per cent (Tr. 6015-6016).

[fol. 1469] On page 5742 witness Schmitt referred to divisions on strawberries covered by my Exhibit A-199, page 159. He also mentioned his own Exhibit A-250, page 11. I have already shown on page 156 of my exhibit that the original joint through rates on berries from Southwestern producing points to Chicago, using representative illustrations, were based on combination of rates on East St. Louis, the factor north of East St. Louis being 118 per cent of the third class rate East St. Louis to Chicago. For example, the rate Ft. Smith to Chicago was 80 cents per 100 pounds in Frisco I. C. C. 6081, effective during 1906, and was based on the local rate of 59 cents to East St. Louis plus 21 cents beyond, and divided as made. Later, as shown on pages 117 to 123 of Exhibit A-199, the Western Trunk Lines agreed to divide the rates in effect in 1913 on basis of an average of the third class rates to Kansas City or East St. Louis and actual third class rates east as factors. This same basis of rates has been perpetuated simply increasing and reducing the rates in accordance with the general changes authorized since 1918. The divisions were likewise continued on the old approved basis subject to the same measure of increase and decrease made in the through rates (Tr. 6016-6017).

It is needless for me to comment concerning Mr. Schmitt's general remarks as to divisions on peaches. I outlined in my direct testimony, pages 5482 and 5483, the basis for the present rates which explain the differences in earnings for the Southwestern lines and Western Trunk Lines. A general reference to the result of the application of the divisions as made by him in the light of our complete explanation as to the basis and reasons therefor, surely cannot have much weight. Mr. Behrle in mentioning rate level comparisons called attention to the Mason City brick deci-
[fol. 1470] sion and contrasted the level of the rates thereunder with the rates on brick as result of the Commission's decision in I. C. C. Docket 14617. In my opinion, the Com-

mission's decision in the latter case does not properly reflect the rate levels on brick in the southwest. Their decision I think was influenced to a large extent by the low State rates in effect throughout the southwest. There is this further comment, that the Mason City scale is the same for single and joint line hauls, while under the southwestern decision joint line hauls are based on a differential of one cent over the rate in effect for single line hauls (Tr. 6017).

Furthermore, in the Mason City decision the 80 per cent basis on common brick was authorized, while in the southwestern decision that basis has been eliminated. I mean that there the common brick takes the full scale. In other words, there is no differential under the standard scale for application on shipments of common brick. Common brick takes the same rate as other brick. Common brick is the big volume of movement of that traffic in the southwest. It moves for shorter distances, distances under 200 miles, depending upon the territory. That constitutes the largest volume of the various classes of brick. Furthermore, these rates on brick as set by the Commission are among the lowest rates that we have in the Southwest. I cannot say that is because they are almost the latest rates the Commission has set for us. I agree with the Commission that the so-called common brick movement in the Southwest is not, generally speaking, of the character intended to be covered by the definition of common brick in the general brick case. I have always thought that (Tr. 6018-6019).

[fol. 1471] R. C. Trovillion was recalled as a witness and testified as follows:

Direct examination:

Mr. Grace's exhibit No. A-243, presented at the Chicago hearing deals with divisions on class rates from Chicago, Ill. to various points in Oklahoma, via Kansas City. Neither the exhibit itself nor the testimony offered in explanation of it makes any claim as to any substantial movement of traffic from Chicago to Oklahoma on classes. It is certain that little or no traffic moves on class rates from Chicago

or from Chicago territory to Oklahoma. The present basis of divisions on this class of traffic does not materially affect the revenue of the Western Trunk Lines. There is no movement northbound from Oklahoma to Chicago territory on the class rates that I know of (Tr. 6019-6020).

The important thing to remember in connection with this exhibit is that the deliveries northbound to the Western Trunk Lines at Kansas City exceed the southbound deliveries by a ratio of two or three to one, and that practically all of the northbound business from Oklahoma, at least in excess of 95 per cent of it, divides on special bases, and not on these merchandise percents. The same criticism applies in connection with Mr. Grace's Exhibit No. A-244. Additionally, it should be observed that all five destinations shown in this exhibit are reached via direct lines from St. Louis to Oklahoma—That exhibit covers divisions on class rates from St. Louis to Oklahoma points via Kansas City. That is it shows the divisions east and west on traffic originating at St. Louis. The haul from St. Louis to Kansas City, being in Western Trunk Line territory and the haul from Kansas City west being in Southwestern territory (Tr. 6020).

[fol. 1472] Woodward via the M-K-T; Muskogee via M-K-T, Frisco; Oklahoma City via M-K-T, Frisco, Rock Island; Enid via Frisco, Rock Island, and Ardmore via the Frisco and the Rock Island. Therefore, traffic from St. Louis to Oklahoma via Kansas City for those points would be negligible. There might be a movement from interior points taking St. Louis rates, but in that case the local rate to Kansas City would in all probability be less than the St. Louis-Kansas City rates shown on this exhibit, and the distance would be shorter. In Mr. Grace's exhibit No. A-245, he shows divisions on agricultural implements and automobiles to various points in Oklahoma. On automobiles there is no different situation than his exhibits A-243 and A-244 show, because the through rate on automobiles from Kenosha, Wis., to Oklahoma, as well as the factors to and from Kansas City are on the full first class basis. On agricultural implements, however, the same objection is present in using a rate prorate between two different rate territories as commented upon in my testimony at the Galveston hearing. The through rate from Chicago to Oklahoma City, for

an illustration—on agricultural implements—is $1.025. This is the commodity rate (Tr. 6021).

The exhibit shows what a rate prorate would earn and shows the factors north and south of Kansas City used in arriving at a rate prorate. The local north of Kansas City is the Chicago-Kansas City rate, and on agricultural implements is the full class "A" rate of 48 cents. The local rate from Kansas City to Oklahoma City on agricultural implements, carloads, is 64 cents; the class "A" rate is 73 cents. Naturally an exhibit of this kind will make a favorable showing for the line whose local is on the full class basis. Note also that a mileage prorate would give the lines north of Kansas City 121.1 per cent of their local rate. Mr. [fol. 1473] Grace's exhibit No. A-247 is offered in rebuttal of my exhibit A-226, and deals with divisions on cottonseed meal through East St. Louis and Kansas City. The criticism of my exhibit A-226 was based on the fact that I had used proportional rates in making my comparisons. I used proportional rates because those are the rates upon which the business moves. If there had been proportional rates from the southwest to Kansas City or St. Louis, I would have used them. An exhibit showing a rate prorate that is not based on the rates which move the business is of no value. It is a fact, as stated by Witness Grace, a basis of divisions was worked out via Kansas City on cottonseed cake and meal from Oklahoma to certain Western Trunk Line territory. The basis did not serve to change the old arrangement materially, however, because under the block system worked out, the lines beyond Kansas City receive their proportional rates as a maximum in practically every case as shown in my exhibit A-226. This was the basis in effect before the new agreement was made (Tr. 6021-6022).

In connection with Mr. Grace's exhibit A-248, he comments on the fact that the lines from Oklahoma City on packing house products and fresh meats receive to Kansas City divisions in excess of their local rates. The local rates from Oklahoma City to Kansas City on fresh meats is 39½ cents; on packing house products 26 cents; so that Mr. Grace's statement is not true in connection with the fresh meats from Oklahoma City to Kansas City on shipments destined New York or other eastern points. He attempts to justify compounding of divisions on eastern traffic

through the Mississippi River gateways by showing that traffic moves to New York from Oklahoma City via Kansas City thence to and through East St. Louis, thence to Chicago. Practically all of the fresh meats and packing house products originating at Oklahoma City and destined Chicago and eastern territory do not move as shown by him but are handled via the M-K-T to Kansas City and the C. & A. beyond. The fact that the lines from Oklahoma City to [fol. 1474] Kansas City receive more than their local rates to Kansas City does not necessarily show that their divisions are excessive on this traffic for the reason that the rates on packing house products and fresh meats from Oklahoma City to Kansas City are absurdly low (Tr. 6023).

While it is not the desire to go into detail as to the history of these rates, it is important, I believe, to call attention to the fact that the present rates are depressed to Kansas City by reason of the Commission's decision in the so-called 1716 case, 22 I. C. C. 160. This case involved among other things fixing competitive rates from Oklahoma City and Fort Worth to Kansas City, versus Wichita, Kansas. At the time this case was considered, which was in 1911, the rate on packing house products from Wichita, Kansas, to Kansas City, Kansas-Missouri, was 12 cents; on fresh meats 16½ cents. There were repeated efforts made to advance this rate, but it could not be done due to certain Wichita-Kansas City lines maintaining the adjustment, and due to the further fact that the rate from Wichita, Kansas, to Kansas City, Kansas, was a Kansas State rate, and under the Kansas laws a rate cannot be advanced without obtaining the permission of the Kansas Utilities Commission. When the Interstate Commerce Commission endeavored to fix these rates, it found that a correct relationship should be maintained between the three packing centers, and that the rate from Oklahoma City ought not to exceed by more than 40 per cent that contemporaneously in effect from Wichita, and from Fort Worth by not more than 75 per cent. Accordingly the rates on packing house products from Oklahoma City to Kansas City became 17 cents and on fresh meats 26 cents. That was a considerable reduction from the rates then in effect from Oklahoma City (Tr. 6023-6024).

[fol. 1475] The rates today reflect those figures plus the various increases and minus the decreases. The present rate is 26 cents on packing house products and 39½ cents on fresh meats. The case was decided purely upon the relationship with Wichita and there is no reason to believe that an amount in excess of these locals for our division is unreasonable. I criticized comparisons that Mr. Grace made because instead of using the through rate north on which I say the traffic would move, he used the local rate where there was no through rate. I think that in a rate prorate, the rates north and south of the junction which actually move the traffic should be used in the absence of through rates, if the rates are not depressed by any peculiar conditions. It depends upon the commodity I think (Tr. 6025).

I think each commodity is peculiar to itself. When you come to a rate prorate, I don't think it is entirely right to use a proportional rate north and a local rate south. In this particular case of cotton seed cake and meal, the commodity takes the corn rates in Western Trunk Line territory and there is nothing to indicate that they are depressed or anything particularly wrong with them. I think I could not agree upon any general proposition because each commodity is, as far as the rate prorate is concerned, almost a different law unto itself. Take for illustration, oil: The rate prorate would be entirely unfair on oil. I have in mind Kansas City, because of the very low rates to Kansas City. I think that the use of a local rate south against a proportional rate north would be more comparable in the case of cotton seed meal than the use of the local rate north of Kansas City. I would not say as a general thing that a rate prorate is representative or the fair basis between the use of the rates that moved the business, and just on that [fol. 1476] same theory—of course if I was going to do that I would have to use the class rate on agricultural implements north of Kansas City (Tr. 6026-7).

In Mr. Westcoat's Exhibit A-257 he makes reference to my Exhibit A-226, dealing with cottonseed products, and he shows what a rate prorate would yield the respective carriers north and south of the junctions based on the local rates in the two territories. The Western Trunk Lines are now exacting their full proportional rates on this business

both via East St. Louis and Kansas City. The local rates north of the junctions means nothing because any business that moves would be on the proportional rates (Tr. 6027-6028).

In Mr. Westcoat's exhibit A-260, another evidence is shown as to the impropriety of figuring a rate prorate when one factor is not on the commodity basis. In this instance, the agricultural implement rate north of Kansas City is on the full class "A" basis, naturally a rate prorate would accord an increase to the lines north. This exhibit also shows the impropriety of a mileage prorate and particular attention is called to the percentage relationship a mileage prorate would yield the northern lines as compared to their local rates. In referring to use of the rates on either side of the junction to make a rate prorate, I said if you make a rate prorate; but I said that the making of a rate prorate did not necessarily follow that it was the proper basis of divisions in all cases. Sometimes a rate prorate might be fair if the volume of the rate was similar But take the case of Kansas City. If the man gets his full class A rate on a commodity I would say that that would reflect the proper basis for divisions. I do not say that on all cases the rate prorate would be the proper thing. I think I should be governed by the particular commodity (Tr. 6028-6029).

[fol. 1477] Exhibit A-261 filed by Mr. Westcoat is another illustration showing the fallacy of a rate prorate where the local rate north of Kansas City is on the full class basis. The rate on iron and steel articles from Chicago to Kansas City is 42 cents as shown by the exhibit, which is the full 5th class rate. The commodity rate of 65½ cents south of Kansas City is substantially less than the 5th class rate.

Exhibit A-289 which I have prepared, consisting of 11 pages, is particularly in connection with Mr. Gillette's exhibits A-265, A-266, and A-267. There are so many errors in these exhibits that it will be necessary to call attention to the majority of them pointing them out in connection with the exhibits.

In the first place, as Mr. Gillette explained in connection with these exhibits, he has used what he terms to be the general basis of divisions north and south of Kansas City,

that is, the 70 per cent basis south of Kansas City and 30 per cent basis north of Kansas City (Tr. 6029-6030).

It is a fact, however, that on any business moving via the C. & N. W. the basis used in his exhibits do not apply, and in my Exhibit A-289 I have taken various shipments from the billing and shown actual joint account settlement.

A statement described by the witness was thereupon offered in evidence as Exhibit A-289 (Tr. 6030).

(The statement described by the witness was thereupon received in evidence as Exhibit A-289.)

[fol. 1478] The Witness: Referring to Mr. Gillette's Exhibits, however, I desire to comment on them as I proceed with my exhibit.

On page 1 of his Exhibit A-265, he shows rates on cheese from East St. Louis to Texas common points of $1.26. This rate is in error. The rates from St. Louis to Texas common points range from $1.14 at North Texas points such as Vernon and Terrell to $1.62 at South Texas points. The $1.26 rate which he uses applies to Dallas and Fort Worth. If he had used $1.62 rather than $1.26 the lines south of East St. Louis would be shown to have received 74 per cent of their local rate including St. Louis bridge rather than 95.2 per cent. This exhibit is entirely wrong, and the average mileage shown from East St. Louis to Texas common points is, of course, in error, as he compares his average mileage to the $1.26 rate which is not applicable for the distances used (Tr. 6030).

On page 2 of this exhibit he shows rates and divisions on cheese from Gillett, Wis., to Texas common points via Kansas City, and shows the local rates from Kansas City to Texas common points of $1.46, and that the lines south of Kansas City receive 84.6 per cent of the local rate. The rates on cheese from Kansas City to Texas common points range from $1.14 to the Dallas-Ft. Worth group to $1.42 at Kenedy, Tex. The San Antonio rate is $1.30. I do not know how Mr. Gillette arrived at the $1.46 rate. No shipments move in connection with the C. & N. W. where any such divisions as shown in Mr. Gillette's exhibit apply. On page one of my exhibit A-289 I have shown actual settlement on a car moving from Marinette, Wis., to Waco, Texas, on

through rate of $1.67. In accordance with C. & N. W. division sheet No. 6820 in actual settlement the lines south of Kansas City receive $1.049; lines north 62.1 cents. The revenue of the Southwestern Lines was 81.9 per cent of their local rate; to the lines north of Kansas City 67½ per cent, which is considerably different than the relationship shown [fol. 1479] on page two of Mr. Gillette's exhibit A-265 (Tr. 6031).

On page three of Mr. Gillette's exhibit A-265, he uses as an illustration newsprint paper from Appleton, Wis., to Texas common points. His figures are in error as the factor he has used as the rate from Kansas City to Texas common points of 52 cents is the Dallas-Fort Worth Group rate. The rate to Texas common points is 60 cents. His exhibit is neither correct therefore as to North Texas or as to common point territory because he has shown average mileage to common points. Based on his illustration as to divisions, which is entirely incorrect so far as the C. & N. W. is concerned, but assuming that the lines south of Kansas City did earn 49.7 cents, the percentage relationship to the local rate on common points business is 83 per cent instead of 95.6 per cent as he has it. On page four Gillette's exhibit A-265, the same error is made as to the local rates from Kansas City. 52 cents is the Dallas-Fort Worth rate, while 60 cents is the rate to Texas common points. This makes this page incorrect, and the same criticisms apply as do to page three (Tr. 6031-6032).

On page five Mr. Gillette has shown rates on agricultural implements from Fond du Lac., Wis., to Texas common points. The local rate from Fond du Lac to Kansas City is 48 cents instead of 48½ cents as shown—it is a full class "A" rate. The rate from Kansas City to Texas common points is not $1.185 as Mr. Gillette has it. The Dallas-Fort Worth Group is $1.055 and the Texas common point rate is $1.155, therefore, according to his basis of divisions, the lines north of Kansas City would receive approximately 84 per cent of their local rate which is the full class "A" rate, while to Texas common point territory Southwestern Lines would receive 78 per cent of their local rate as compared with 84 per cent received by the lines north of Kansas City. Even [fol. 1480] though we were to figure a rate prorate there appears to be nothing wrong with this basis, but as a matter

of fact, actual movements to Texas in connection with the C. & N. W. do not carry such substantial revenues for the Southwestern lines. The mileage which I have shown on page 1 from Marinette, Wis., to Kansas City, Mo., of 695 miles is the short line mileage of the Milwaukee Railroad, just as I have shown south of Kansas City the short line mileage. If the Milwaukee handled that shipment direct from Marinette to Kansas City, the rate would have been divided upon the basis shown in Mr. Lutz's exhibits. I refer to Exhibit A-265. That is, he established percentages through Kansas City on his exhibits. The Southwestern lines would have taken 70 per cent of the Milwaukee rate, which is $1.765 and the Milwaukee Railroad would have taken the balance of 30 per cent. I think the rates from Marinette to Kansas City are class A rates. I am pretty sure of that. I don't know whether they are class or commodity rates. I was thinking of agricultural implement rate. My recollection now is that they are third class rates. Those are the cheese rates to Kansas City.

Attorney Larimore here stated that they are class rates (Tr. 6032-6033-6034).

The Witness: On page 2 of my Exhibit A-289 is shown an actual movement of agricultural implements from Racine, Wis., to Alvarado, Texas, and Hillsboro, Texas, and waybill reference and dates of movement are shown. The through rate of $1.295 compares with that in effect from Fond du Lac shown on page 5 of Mr. Gillette's exhibit. Note that in actual settlement we received 77.1 cents per 100 pounds south of Kansas City instead of 90.61 as Mr. Gillette has it, and that the lines north of Kansas City receive 109 per cent of their local rate from Racine, Wis., instead of 84.6 per cent as shown by Mr. Gillette. That is a shipment moved via Chicago & Northwestern, Omaha, [fol. 1481] Missouri Pacific, M-K-T. I think I have shown the short lines in all cases without exception. The 48-cent rate as far as I know is the rate carried by all lines. The Northwestern carries it too (Tr. 6035).

By Mr. Towner:

Q. This is a sample of those divisions to which reference has been made where the lines south of Omaha to one of the

interior Iowa points will give the Northwestern an arbitrary division and divide the balance on Kansas City, which has the effect of increasing the total amount of money that is divided north of the junction?

A. You say it a little bit differently than I would, but that is the effect of it.

The Witness, continuing: I feel that Mr. Gillette's exhibit, while he was talking about the general basis—I wanted the record a little more clear as to the money that we were actually getting by the Northwestern on this business. I think he explained it, but I wanted to show what we had on some of the special bases. In this connection it is important to note that the Western Trunk Lines often do receive in excess of their local rates to breaking points. The Southwestern lines have been criticized several times in this proceeding because in some instances they receive more than their local rates. I have particular reference to Mr. Grace's criticisms as to the divisions on packing house products and fresh meats from Oklahoma (Tr. 6038).

On page six of Mr. Gillette's Exhibit A-265, emphasizing the fact that on potatoes from Escanaba, Mich., to Texas common points, lines north of Kansas City receive 93.2 per cent while lines south of Kansas City receive 95 per cent, it is not clear what criticism is to be found with this condition, except that it apparently shows that we are not receiving any undue proportion south of the Missouri River. [fol. 1482] On page seven of Mr. Gillette's exhibit A-265, he shows divisions which it is alleged apply on refrigerators from Rhinelander, Wis. to Texas common points. His local rates from Kansas City to Texas common points is in error as the figures he quotes apply only to the Dallas-Fort Worth group. The rate from Kansas City to Texas common points is $1.295, so that instead of receiving 84.2 per cent of our local rate to common points we receive only 79 per cent as compared with his figures north of Kansas City of 91.9 per cent of the local rate. As a matter of fact, however, on page three of my exhibit A-289, is shown movement of two cars of refrigerators, one from Fond du Lac, Wis., and one from Rhinelander, Wis., destined Wichita Falls and Dallas, Texas, respectively. It will be observed that on the shipment from Fond du Lac to Wichita Falls,

the lines north of Kansas City received 92.7 per cent of the local rate as compared with 83½ per cent for the lines south (Tr. 6036-6037).

From Rhinelander to Dallas lines north received 117.1 per cent of the local rate as compared with 71.6 per cent south of Kansas City. In other words, the M. K. T. south of Kansas City out of the through rate of $1.545 receive 84.8 cents per 100 pounds on the car from Rhinelander, Wis., to Dallas, instead of 99.8 as Mr. Gillette has it on page seven of his exhibit. On page 8 of Mr. Gillette's exhibit A-265, additional errors are shown. His local rate from Oshkosh, Wis., to Kansas City is 48 cents instead of 48½ cents as he has it, while the local rate from Kansas City to Texas common points is $1.155 instead of $1.055 as shown by him. The latter figure is the Dallas-Fort Worth rate. Therefore, even according to his divisional basis, which is entirely erroneous so far as the C. & N. W. is concerned, to Texas common points we earn 78 per cent of our local rate as compared with 86.4 per cent for the lines north of Kansas City. I think we could well afford to adopt Mr. Gillette's exhibit for our own were it not for the fact that it contains so many [fol. 1483] errors. I have shown the short line mileage north and south in every case, regardless of how the shipments moved. The mileage of 712 miles from Rhinelander, Wis. to Kansas City is via the C. M. & St. P. I think. It is shown on the following page (Tr. 6037-6038).

On page 9 of Mr. Gillette's exhibit A-265 he shows the rate on matches from Kansas City, Mo., to Texas common points as $1.07, whereas, the rate from Kansas City to Texas common points is $1.18. Under his divisional basis shown instead of the lines south of Kansas City receiving 87.4 per cent of the local rate they receive 80 per cent as compared with his showing for the lines north of Kansas City of 85 per cent of their local. If we received 85 per cent of our local south of Kansas City on common point business we would receive $1.005 per 100 pounds instead of 93½ cents as he has it. Therefore, if his exhibit as to percentages of local rates means anything at all, it means that our divisions on matches destined Texas common points should be increased from 93½ cents to $1.005 per 100 pounds. On page 10 of Mr. Gillette's exhibit A-265, he shows rates and divisions on automobiles from Kenosha,

Wis., to Texas common points. The rate he has shown of $1.93 is that applicable to the Dallas-Fort Worth group, and the rate to Texas common points is $2.235. Therefore, according to his figures instead of receiving 92.1 per cent of our local rate, we would receive 80 per cent. These figures are, of course, not correct on shipments moving from Kenosha, Wis., in connection with the C. & N. W. (Tr. 6039).

On page 5 of my Exhibit A-289 are shown actual movements from Milwaukee, Wis., and Kenosha, Wis., to Austin and San Antonio, Tex. Note that north of Kansas City the lines receive 85.7 per cent of the local rate, while south the percentage relationship was 67.6 per cent, and comparing the actual movement from Kenosha, Wis., to San Antonio, Texas, with Mr. Gillette's exhibit, it will be ob- [fol. 1484] served that the lines north of Kansas City actually received $1.029 per 100 pounds, instead of 76.2 cents as he has it, while the lines south of Kansas City receive $1.511 instead of $1.788 as shown by him. It seems to me to matter very little what the general basis may be which Mr. Gillette testified was the basis he used in connection with his exhibit A-265, as the revenues themselves are divided on some other basis. Most of the carriers join in this. The Kansas City Southern, the Katy and the Frisco, I am sure do not. The Frisco has not to my knowledge joined in that 40½ per cent basis. If it has, I do not know it (Tr. 6039-6040).

The condition I was talking about was the Marshalltown-Des Moines condition; but there is a special basis to Chicago. It is a special 15 per cent basis through Chicago differing from the general basis which Mr. Gillette spoke about. So far as my exhibit is concerned, it goes only to that traffic that the Milwaukee gets off the Northwestern routed via Kansas City through its intermediate junction in connection with these other lines that join in this special basis of dividing the revenue (Tr. 6040-6041).

Examiner Disque: I do not understand why the lines south of East St. Louis deduct so much for the bridge charge. When the traffic goes through Kansas City you deduct nothing for crossing the Mississippi at Savannah or crossing the Missouri River at Kansas City for the lines

north of Kansas City. The C. M. & St. P. crosses the river down at Savannah and down at Kansas City again before you get the traffic. Why do you not give them two bridge charges before you apply your 40½ per cent?

The Witness: I think they get too much now, as it is (Tr. 6041-2).

The Witness, continuing: I understand the bridge is a Milwaukee bridge owned by the Milwaukee Railroad Company.

[fol. 1485] (Here Examiner Disque asked Attorney Burg whether the Southwestern Lines would rather pay the Terminal Railroad Association than build a bridge at St. Louis, to which Attorney Burg replied that he did not know whether they would or not, that he did not know why they should contribute to the maintenance of the Terminal Railroad Association when a lot of the trunk lines today did not pay a cent, nine-tenths of this traffic. Attorney Towner said they were paying too much, to which Attorney Burg replied that the Southwestern Lines operated one of the most expensive terminals in the United States for the Western Trunk Lines' benefit) (Tr. 6042).

The Witness, continuing: My Exhibit A-289 shows actual settlement and is more to the point than any theoretical basis. On page 11 of Mr. Gillette's exhibit A-265, the same error is shown in connection with the rates on automobiles from Milwaukee, Wis., to Texas common points as shown on page 10 from Kenosha. He has his rates wrong again, and of course this has invalidated all of the figures he has made. On newsprint paper shown on page twelve of Mr. Gillette's exhibit A-265, he has shown local rates from Kansas City to Texas common points of 52 cents. The rate to Texas common points is 60 cents so that even assuming his divisions are correct, the lines south of Kansas City would receive 83 per cent of their local rate as compared with 79 per cent for the lines north. While we are on the subject of news print paper rates, however, it should not be understood that the lines north of Kansas City receive 79 per cent of their local rate in every instance. On page 10 of my Exhibit A-289 are shown some representative divisions on newsprint paper from Minnesota and Wisconsin points

to Texas common points using the same basis as shown by Mr. Gillette on page 12 of his Exhibit A-265, which does not contemplate the compounding of divisions through Marshalltown or Des Moines. Note that the lines north of [fol. 1486] Kansas City receive generally the same percentage relation of their local rate as do the lines south of Kansas City.

Mr. Gillette's exhibit A-266 shows divisions on various commodities to Oklahoma points. I have very little comment to make on this exhibit because I see no particularly aggravating situation in these divisions as shown by him. There are a few facts to be noted in connection with this exhibit, however (Tr. 6043-6044).

On page 1 Mr. Gillette's Exhibit A-266 shows that on cheese from Green Bay, Wis., to Tulsa, Okla., the lines north of Kansas City receive 82.8 per cent of their local rate, while the lines south of Kansas City receive 74.4 per cent of their local rate. He states that the local rate he uses from Green Bay, Wis., to Kansas City, Mo., is the full third class rate, while our percentage relationship from Kansas City to Tulsa is based on a commodity rate. On page two of Mr. Gillette's Exhibit A-266, covering newsprint paper from Appleton, Wis., to Tulsa, Okla., he shows that the lines south of Kansas City receive 74.4 per cent of their local rate, while we receive 81.1 per cent of our local rate. There is no material difference here.

On page 3, in connection with canned goods divisions from Sheboyban, Wis., to Tulsa, Okla., he shows that the lines north of Kansas City receive 70.2 per cent of their local rate, and readily admits that the local rate from Sheyboygan, Wis., to Kansas City is the full fifth class basis, while using our commodity rate from Kansas City to Tulsa, Okla., of 44.5 cents deduces the fact that we receive 84.3 per cent of our local rate. If we were to receive 70.2 per cent of our fifth class rate from Kansas City to Tulsa, which he receives from Sheboygan to Kansas City, we would receive 38.6 cents per 100 pounds for our haul instead of 37½ cents as shown by him. The rate is 44½ cents regardless of whether it was a class or commodity rate, and if [fol. 1487] we were going to take a shipment from Kansas City to Tulsa, that is the rate we would charge (Tr. 6044-6045).

Mr. Gillette's Exhibit A-267, pages 1 and 2, deal with rates on petroleum oil from Wichita Falls and Burkburnett, Texas, to Green Bay, Wis., and pages 6 and 7 of my Exhibit A-289 deal with the situation also. On page 1 of Mr. Gillette's Exhibit A-267 he shows the rate from Kansas City to Green Bay, Wis., as being 41½ cents. The rate should be 38½ cents so that based upon the divisions which he states are correct, the lines north of Kansas City receive 45.7 per cent instead of 42.4 per cent of the local rate. He shows mileage of 657 miles, which is not the short line mileage—the short line mileage is 619 miles via the C. M. & St. P. On page 6 of my Exhibit A-289 is shown actual movements from Wichita Falls, Texas, to Beloit, Wis., Burkburnett, Tex., to Milwaukee, Wis., and Burkburnett, Texas, to Sheyboygan, Wis. The actual divisions required by the C. & N. W. in connection with the lines beyond Kansas City on these shipments were 40½ per cent of the through rate to Beloit and Milwaukee and 47.8 per cent to Sheboygan, instead of percents shown in Mr. Gillette's exhibit A-267 (Tr. 6045-6046).

The lines north of Kansas City out of the 47 cent rate to Sheboygan earned 22 cents instead of 17.6 cents as shown by Mr. Gillette. Therefore, instead of earning 42.4 per cent of their local rate, they actually earned 57.1 per cent. It is important here to note that contrary to the statements which have been heretofore made, the C. & N. W. is compounding the revenue on northbound movements of oil, and in this instance settlement was made of 40½ per cent basis to Milwaukee, which allows them 17 cents north of Kansas City instead of 12.6 cents as shown by Mr. Gillette. On page 2 of Mr. Gillette's exhibit A-267 the same criticisms are in order as on page 1. On page 7 of my exhibit A-289 [fol. 1488] I have also shown the divisions via East St. Louis on a car from Wichita Falls to Green Bay, Wis. Lines north of East St. Louis exacted 39.1 per cent of the through rate, which allows them 18.4 cents from East St. Louis. I will make reference later to the percents that the revenue north and south of Kansas City bears to the local rates.

On page 3 of Mr. Gillette's exhibit A-267 he shows rates and divisions on Green Salted Hides from Texas common points to Sheboygan, Wis. The rates he quotes do not ap-

ply from Texas common points. The rate of 62½ cents shown to Sheboygan from Texas common points is in error. The 62½ cent rate applies from the Dallas-Fort Worth Group, but not from Texas common points. The same is true with regard to the rate shown of 50 cents from Texas common points to East St. Louis. This is the Dallas-Fort Worth rate (Tr. 6046-6047).

On page 8 of my exhibit A-289 I have shown actual movement from Houston, Texas, to Sheboygan, Wis., on three carload shipments, from which it will be noted that the lines north of East St. Louis received 24.8 cents per 100 pounds, whereas their local rate shown on Mr. Gillette's exhibit is 24½ cents. They receive 101 per cent of their local rate. I will check up the 24½ cent rate. I took this from Mr. Lutz's exhibit. I may have a typographical error here. It would naturally reduce the 101 per cent if the rate were higher than 24½ cents (Tr. 6047).

Referring to the divisions north of East St. Louis, the Western Trunk Lines divisions are so high and they are compounding their divisions on Chicago, probably.

[fol. 1489] Examiner Disque: It may be because the rates are too low.

Mr. Towner: Take a look at page 7. Their divisions are only 62½ per cent north of St. Louis, whereas south it is 82½. That is obviously because our division is not high enough.

The Witness, continuing: On page 5 of Mr. Gillette's Exhibit A-267 he shows the short line mileage from Texas common points to East St. Louis of 803 miles, which is, of course, in error, because he has not used the Texas common point rate. The mileage is not wrong, but he has applied the wrong rate. The mileage of 1,084 miles from Houston to St. Louis is not the short line mileage. That is M-K-T mileage. The short line mileage is 812 miles. That is the way the shipment moved, but I think I have used the short line mileage throughout the exhibit, except that. In the case of the Northwestern shipments, I have used the direct line of the Milwaukee to Kansas City, and the short line to Dallas (Tr. 6047-6048-6049).

On page 4 of Mr. Gillette's exhibit A-267 he has shown divisions on cotton linters, which also contains some errors.

Using the $1.195 rate shown on this exhibit the revenue south of East St. Louis amounts to 78.4 cents, while the revenue north of East St. Louis amounts to 41.1 cents as per S. W. L. Divisions sheet 38-A, I. F. A. 9-A. The lines south of East St. Louis receive 82½ per cent of their local rates, while the lines north of East St. Louis receive 90.3 per cent of their local rate instead of the figures shown by Mr. Gillette.

Page 9 of my exhibit A-289 is merely offered in connection with Mr. Gillette's exhibits because he has invariably made reference to the percentage that the divisions north and south of Kansas City or St. Louis bear to the local rate. I am in considerable doubt as to the value of a relationship of this kind in determining the propriety of divisions, but in order to show that the percentage relationship [fol. 1490] oftentimes is in favor of the Western Trunk Lines, page 9 of my Exhibit A-289 shows divisions on potatoes from Minnesota and Wisconsin producing points to Texas common points and shows the percentage relation of the divisions north and south of Kansas City with the revenue (Tr. 6049).

We probably have a 73 cent rate from Kansas City to Dallas-Ft. Worth territory. I do not know whether generally speaking from this Northwestern territory we have an 81 cent rate. We probably have. But that is a very limited territory as you know. It does not embrace the so-called Texas common point territory. I presume we have two other local rates which would produce substantially larger percentage relationships than I have shown. But if you will refer to Mr. Gillette's exhibit, he talks about Texas common points in every case. I am simply putting my exhibit in to show the Texas common point situation. The Dallas-Fort Worth territory is pretty important territory. There the rate is 73 cents. The Texas common point territory is more important than the Dallas-Fort Worth group. I mean the relative movement of traffic. The Texas common point blanket covers more territory and more traffic than the Dallas-Fort Worth group does (Tr. 6049-6050-6051).

On page 10 a similar situation is shown, which I have already made reference to in commenting upon Mr. Gillette's newsprint paper exhibits. Page 11 is a similar situ-

ation dealing with grain from Minneapolis to Texas common points, where it will be noted to all Texas groups the lines to Kansas City receive their full proportional rates on wheat and corn. The percentage is shown south of Kansas City or the relationship which the divisions bear to our proportional rates. The rates from Minneapolis to Fort Worth and other points shown on page 11 are proportional rates. That is my recollection. The proportional rates may be somewhat less than these rates I have shown. But of course, there is probably no grain. I could not say that. There is grain moving on these lines under the C. [fol. 1491] G. W. tariff. It may not be from Minneapolis. If we bring grain from Minneapolis to our Texas territory, we draw it out on a proportional rate. But there is grain moving on these rates from Chicago, Milwaukee and St. Paul points taking those rates. It is my recollection that the proportional rates divide on a different basis than the rates I have shown. I have not that here, and my exhibit does not show it (Tr. 6051-6052).

I do not know the proportional rate on wheat from Minneapolis to Fort Worth, via Kansas City, but 51½ cents sounds about right. I can not say what the division is. It may be 16.1 cents north of Kansas City and 35.4 south. But the fact remains that there is business moving on the rates shown on page 11 of my exhibit. I am not making any attempt here to show that the proportional rates from Minneapolis to Texas do not carry any grain. I think there is a movement of that grain. If the Western Trunk Lines want to make any further showing in this record as to the division of grain rates from Minneapolis to Texas territory, I do not object to their putting it in, but I do not see why I should put it in for them. My exhibit shows the rates from C. G. W. points. It was not to show merely the grain situation. It is just put in in answer to the criticisms that were made that we were getting such a close percentage to 100 per cent of our local rates and divisions (Tr. 6052-6053).

Referring to page 11 of the exhibit, it is not misleading, except that it uses Minneapolis. If a shipment moved from Minneapolis to this same territory, it may be true that it would move on a different rate, and the division north would be 68½ per cent of the proportional rate north.

If the Western Trunk Line think the exhibit misrepresents the situation, I will file a corrected page showing the [fol. 1492] Minneapolis proportional rate and the rate from some local point on the Chicago Great Western.

Here Attorney Muckley inquired whether the division percentages given in connection with the governing of the witnesses were testimony, to which Attorney Towner replied that he did not know but that if they were going to have any grain divisions in the record he would like to have the exact situation presented (Tr. 6053-6054).

The Witness, continuing: I will file corrected page that will clear the situation.

Mr. Towner: I do not deny the page is correct, so far as your local points are concerned. It is only this Minneapolis situation that I am referring to. I do not say that it is wrong at all, if you are applying it, but you use the local rate.

The Witness: The page is misleading to the effect that it shows Minneapolis as an origin.

After discussion the examiner gave the witness ten days within which to file supplement to the exhibit (Tr. 6054-6055).

The Witness, continuing: Exhibit A-270 offered by Mr. Behrle, and his testimony in connection therewith particularly with regard to his reference to my testimony on pages 5538 and 5539 of the transcript leaves an erroneous impression. At no time in my testimony did I make the statement or inference that the present divisions on oil were not the result of an agreement. The records produced in Mr. Behrle's exhibit A-270 are exactly in line with my testimony at the Galveston hearing regarding this controversy, and the M-K-T expressed itself as being willing to leave the matter of these divisions in the hands of the Chairman of the Western Trunk Line Committee and has as much or more interest in its activities as has the C. & A. [fol. 1493] The mere fact that we did this in 1926 has no bearing upon the propriety of the present or past divisions. Practically all of the divisions involved in this proceeding are the result of agreements, and this condition is no different than any of the other agreements. The Midgely per

cents involved the basis now applicable southbound from Chicago territory to Oklahoma are the result of agreements to which the Western Trunk Lines now apparently object. The same is true of the Texas common point percents.

Exhibit A-274 offered by Mr. Behrle is another illustration where the percentage relation the present divisions bear to the local rate show up favorably for the Western Trunk Lines merely because the local rates are in most instances class rates upon which no business moves (Tr. 6056-6057).

I say no business, Mr. Examiner, because Mr. Behrle has shown northbound movements of strawberries and cotton and potatoes, and there is no movement from St. Louis to Chicago of strawberries or cotton or potatoes or similar commodities. The last column of this exhibit shows the percentage relation present divisions to local rate, and naturally it shows relatively smaller percentage relationship for the Western Trunk Lines than for the lines south of Kansas City. The local rates shown in the third column from the last are in 17 instances out of the 26 commodities listed on the first page full class rates from Kansas City, while the rates south of Kansas City are in every instance commodity rates except five. On page 2 of Mr. Behrle's exhibit A-274, out of the 16 entries, 9 of the rates north of Kansas City are the class rates, while eight are class rates south of Kansas City. On page 3 of Mr. Behrle's exhibit A-274, out of 23 shipments there are 10 class rates used north of East St. Louis and three south thereof (Tr. 6057).

[fol. 1494] On page 4 of Mr. Behrle's exhibit A-274, showing Wisconsin points via East St. Louis, out of the 23 shipments listed 12 of them take the class rates north of East St. Louis. On four of these shipments class rates apply south of East St. Louis. On page five of Mr. Behrle's exhibit A-274, 16 commodities are listed, five class rates are used north of the junctions and one class rate south thereof. On page six of Mr. Behrle's exhibit A-274, 31 shipments are listed out of which 18 class rates are used north and one class rate south of the junctions. This exhibit shows very clearly that a comparison as to the revenues north and south of East St. Louis or Kansas City,

with the local rate north and south thereof, means very little unless the local rates are in some measure comparable. I mean comparable as to the volume of the rate. There is no cotton moving locally from East St. Louis to Chicago. Naturally it would be a higher rate than a paper rate. In the absence of the through rate, the traffic would move on the combination. There are through rates on all these commodities shown, because he has shown divisions of them (Tr. 6057-6058-6059).

Exhibit A-275 was explained by Mr. Behrle and was directed perhaps against Mr. Stanage at page 5508 and 5509 and my testimony at page 5566 with regard to the absorption of Mississippi River bridge tolls at East St. Louis. Absorption by the East St. Louis-Chicago lines as to Chicago presents no different situation than at any other point or for that matter as to points of origin. This exhibit shows for an illustration that on oil moving to Chicago in connection with the C. & A., that line absorbed $461.78 and compares it with the bridge tolls absorbed by the Southwestern Lines of $389.38. The bridge tolls absorbed by the Southwestern Lines are a separate and distinct matter and there is no way of recouping any payments of this character. The switching absorbed by the Chicago lines is of a reciprocal nature; some of it goes to other Western Trunk [fol. 1495] Lines and some to certain eastern lines. On the other hand, eastern lines absorb switching charges which the Western Trunk Lines assess on their business at Chicago, so that the entire arrangement is reciprocal (Tr. 6059).

If we are to consider destination absorption it is entirely proper to consider absorption at the point of origin. No consideration is given that in this exhibit. We have no specific figures as to the total on that feature, but during the month of June, 1924, which period this exhibit covers, there was shipped from Cushing, Okla., a point on our line, 1,352 cars of oil, of this number 839 cars were received from our connections on which switching in the amount of $2,167.80 was absorbed, or an average of $2.60 per car. If we are to consider reciprocal switching charges at destination ends, certainly it is important to consider the fact that all of this oil, lumber, live stock and other freight does not originate on our rails. Mr. Hoffelder's exhibits A-278,

A-279, A-280 and A-281 are directed against several of my exhibits dealing with rates on oil. From Exhibit A-278 which Mr. Hoffelder states is in rebuttal of my Exhibit A-216, it is observed that he uses the short line distances from Tulsa, Okla., to Kansas City in figuring his mileage pro-rates. Tulsa is admittedly a representative producing point, but in my exhibit A-216, which he proposes to rebut, the distances used by me are the average distances from the Mid-Continent Group of 342 miles to Kansas City. This seems to me fair rather than selecting Tulsa, the most northerly point in the group (Tr. 6060).

All of Mr. Hoffelder's exhibits show rate prorates based on locals to and from Kansas City as factors, and reference is made to the fact that we have in our exhibits used rate prorates based on the fifth class rates as a fictitious and theoretical basis. There is nothing fictitious about them—all divisions are more or less theoretical. We feel a rate prorate based on locals to and from Kansas City does not [fol. 1496] present a fair picture or a fair basis for divisions of these rates. Perhaps a rate prorate of the fifth class rate does not, but at least the fifth class rates to and from Kansas City more nearly gives a picture of the general volume of rates in Southwestern territory versus Western Trunk Line territory. It is not uncommon to use class rates to show a picture of this kind because after all, the class rates are generally used as a yardstick to measure the volume of rates in comparing different territories. The rates on oil to the Missouri River and St. Louis from the southwest are depressed, and lower generally than the rates in any other territory either the southeast, C. F. A., Trunk Line or Western Trunk Line. For that reason, a rate prorate does not reflect a fair basis of divisions north and south of Kansas City. When I say "lower generally than the rates in other territory," I mean lower mile for mile. That was conclusively shown in the Consolidated Oil cases (Tr. 6060-6061).

I think it is important to relate briefly the reasons which have kept the rates to the Missouri River depressed. I refer now to the use of a rate pro-rate, using commodity rates north and south of the junction.

When the Kansas field was at its height the rate on petroleum from Kansas refining points to Kansas City was

10 cents per 100 pounds. The rate from Oklahoma to Kansas City was made 5 cents higher or 15 cents, and that was the condition existing when the Commission heard the original Mid-Continent Oil Case, 36 I. C. C. 109, which was decided in 1915. There was no way to get the Kansas State rate of 10 cents up so that the present rates from Oklahoma reflect the old 15 cent rate, which became 19½ cents with the 4½ cent increase of 1918, 26½ cents with the 35 per cent increase and 24 cents with the 10 per cent [fol. 1497] decrease of July 1st, 1922. Mr. Hoffelder's Exhibit A-280 confirms the testimony offered by me in connection with my exhibit A-208 showing the history of the Group 3 adjustment from Oklahoma. It will be observed that Enid, Okla., was placed in Group 3 on May 20th, 1921, and that Ardmore followed August 15th, 1922 (Tr. 6062-6063).

From Mr. Hoffelder's exhibit A-281 offered in rebuttal of my Exhibit A-216, it will be noted he uses in all cases actual distances from Tulsa, Cushing, Muskogee, Ponca City, Enid, Oklahoma City, Ardmore and Grandfield to Kansas City. From Tulsa to Kansas City he uses a distance of 257 miles, from Cushing 281 miles, from Muskogee 254 miles, from Ponca City 265 miles, from Enid 320 miles, from Oklahoma City 344 miles, from Ardmore 465 miles, and from Grandfield 535 miles. If this exhibit was offered in rebuttal of my A-216, as stated, it would have appeared fair to have used the average distances from the Oklahoma Group or 342 miles, which I used on my Exhibit A-216. This would have changed his figures on the mileage prorate basis considerably. As explained in my previous testimony it is necessary, we believe, to consider the entire Oklahoma field as a whole in arriving at divisions. Mr. Hoffelder on page 5898 of the transcript makes the statement that in my exhibit A-216, I used the average mileage from the enlarged group three Oklahoma origin territory rather than the actual short line mileage to Kansas City from Tulsa. I did use the average mileage but my exhibit clearly shows that I used the average short line mileage. There is no doubt but that these refining points used in my Exhibit A-216 and his A-281 are representative, but it should be borne in mind that they do not represent the bulk of the movement. The actual refining production of

straight run gasoline from these 8 points have a capacity of about 40 per cent of the total refining capacity of the straight run refineries throughout Oklahoma. By straight run refineries I mean to exclude casinghead gasoline plants throughout Oklahoma, and from which shipments move [fol. 1498] regularly to such points as Chicago, Minneapolis, etc. (Tr. 6063-6064).

Exhibit A-282 introduced by Mr. Hoffelder shows a movement from Cleveland, Oklahoma, a local point on our line to Chicago. Absorptions are just as common at originating points as at destination points, and Mr. Hoffelder's exhibit in comparing Chicago absorptions with bridge tolls at St. Louis gives no consideration to the fact that Southwestern Lines do actually make absorptions on originating traffic. Naturally we make no absorptions from Cleveland because that is a local point on our railroad. If the C. B. & Q. made a shipment from a local point on their line they would have no absorptions; furthermore, it was not shown that the absorptions at Chicago were not reciprocal or that the switching revenue did not accrue to another Western Trunk Line. Notwithstanding Mr. Hoffelder's statement, it is admitted, according to page 5900 of his testimony, that the lines south of East St. Louis receive 63.8 per cent of the total revenue and perform 63.2 per cent of the haul. Considering that the business originated at a local point on our railroad there appears nothing alarming about this basis of divisions, except that it is further evidence that the Southwestern Lines are not receiving sufficient money on the business they originate (Tr. 6064-6065).

In Mr. Hoffelder's exhibit A-283 he has taken a car from Burkburnett, Texas, a local point on our line, at which there could not possibly be any absorptions at point of origin. In both cases, however, they are reciprocal and there is no showing here that the Burlington or any other line does not receive more money for the switching it performs than for the switching it hires performed. In other words, if the line purchases switching it is a physical disability which it meets due to competitive conditions. I think we ought to get considerably more than the rate prorate either through St. Louis or Kansas City because our oil rates are too low (Tr. 6065).

[fol. 1499] Assuming the Western Trunk Line class rates are too low, and they are too low via the Southwestern Lines, then of course, the same condition would apply. I said in my statement that the class rate as a general thing is more nearly representative of the general volume of rates in two territories than commodity rates.

Mr. Towner: I ask you to make the assumption that the class rates in Western Trunk Line territory are too low and, having made that assumption, I understand you to say that making these divisions on a class rate comparison with the class basis north and south of the Missouri River would not be proper?

Mr. Muckley: He did not say that, altogether; he said, depending upon the fact that class rates in the southwest were on a reasonably proper level.

Examiner Disque: Now assume that the southwestern rates are too high and the Western Trunk Lines rates are too low.

Mr. Towner: We have got a decision of the Commission that ours are too low and we have the Honorable Examiner's decision that yours are too high.

Mr. Muckley: And we have a decision fixing the rates in Western Trunk Line territory, which was put in this record.

By Mr. Towner:

Q. Did you finish your answer to that, or did you adopt what the lawyer said?

A. I answered that (Tr. 6066-6067).

Thereupon the following colloquy occurred which is quoted verbatim from the transcript of testimony:

Mr. Larimore: For my information, Mr. Towner, is it your position that if the class rates are too low the southwestern lines will absorb the traffic by way of division?

Mr. Towner: I did not say that.

Mr. Larimore: That is what it amounts to.

Mr. Towner: I did not say anything about that.

[fol. 1500] Mr. Larimore: Referring to the decision of the Commission that the class rates are too low, does that decision include Class rates intrastate in Iowa?

The Witness: I do not recall now.

Mr. Muckley: What is that decision?

Mr. Towner: It is a pretty new case. I will find it and let you know the citation.

The Witness, continuing: The absorptions that are made at Cushing are switching from the Santa Fe. The Santa Fe could haul that traffic (Tr. 6068).

[fol. 1501] Hearing on June 29, 1926

L. J. Sickel

My testimony is directed to exhibits and testimony of the Western Trunk Lines at the last hearing held in Chicago on May 6th and May 7th (Tr. 6069).

Exhibit No. A-243, presented by Mr. Grace shows the present earnings of the carriers between Chicago and East St. Louis, 111.1 on each of the 10 class rates, and the average of the 10 class rates, also present earnings of the carriers between Chicago, Ill., and Kansas City, Mo., on each of the 10 classes and the average earnings on the 10 classes to 5 points in Oklahoma shown in exhibit A-181.

Exhibit A-243 also shows the earnings on each of the 10 classes and the average of the 10 classes between Chicago and East St. Louis, Ill., based on a mileage prorate, using short line distance between Chicago and East St. Louis, Ill., and 650 miles south of East St. Louis, the latter taken from exhibit A-77, and the same information based on a rate prorate using the average of the 10 classes between Chicago and East St. Louis, Ill., and the average of the 10 class rates between East St. Louis and Texas common points.

A comparison of the average earnings on the 10 classes received by the carriers from Kansas City to the 6 points in Oklahoma shown on exhibit A-243 as compared with the average earnings that the carriers would receive from East St. Louis to the same Oklahoma points based on a mileage prorate and a rate prorate as shown by exhibit A-243 indicates that the lines from St. Louis, Mo., to the Oklahoma points shown on that exhibit would receive the following spread in their earnings over the divisions currently re-

ceived by the lines from Kansas City, Mo., to the same [fol. 1502] Oklahoma destinations (Tr. 6070).

Based on a mileage prorate the earnings of the carriers from St. Louis, Mo., would exceed or would be less than the earnings of the carriers from Kansas City, Mo., to the 6 Oklahoma points shown on the exhibit by the following amounts:

To Woodward, Okla., lines west of St. Louis, Mo., would receive 1.8 cents more than from Kansas City, Mo.

To Muskogee, Okla., lines west of St. Louis, Mo., would receive 8.9 cents per 100 pounds less than from Kansas City, Mo.

To Oklahoma City, Okla., the lines west of St. Louis, Mo., would receive 1.6 cents per 100 pounds less than from Kansas City.

To Enid, Okla., the lines west of St. Louis, Mo., would receive 5.2 cents per 100 pounds more than from Kansas City, Mo.

To Ardmore, Okla., the lines west of St. Louis, Mo., would receive 8.1 cents less than the lines receive from Kansas City.

To Lawton, Okla., the lines west of St. Louis, Mo., would receive 8.1 cents less than from Kansas City, Mo. (6070-6071).

Based on a rate prorate, the earnings of the carriers from St. Louis, Mo., would exceed the earnings of the carriers from Kansas City, Mo., to the 6 Oklahoma points as shown on the exhibit by the following amounts:

To Woodward, Okla., 8.5 cents.

To Muskogee, Okla., two-tenths of 1 cent.

To Oklahoma City, 8.2 cents.

To Enid, Okla., 14.4 cents.

To Ardmore, Okla., 2 cents.

To Lawton, Okla., 2.2 cents.

[fol. 1503] On the present basis of divisions, the earnings of the carriers from St. Louis, Mo., exceed the earnings of the carriers from Kansas City, Mo., to the 6 Oklahoma points shown on that exhibit by the following amounts:

To Woodward, Okla., 16.4 cents.

To Muskogee, Okla., 7.1 cents.

To Oklahoma City, Okla., 16.0 cents.

To Enid, Okla., 22.1 cents.

To Ardmore, Okla., 10.4 cents.
To Lawton, Okla., 10.6 cents.

Putting it another way, the Western Trunk Lines between Chicago and East St. Louis, Ill., for 279 miles would be receiving almost as much and frequently greater earnings than they receive between Chicago and Kansas City for 452 miles (6071-6072).

With the exception of Muskogee, Okla., the percentages in connection with the Santa Fe, G. C. & S. F., Rock Island and Missouri Pacific R. R.s as now in effect via those lines were agreed upon and approved by the Commission as of July 1st, 1925, and the comparison I have made of the divisions received by the Southwestern Lines have been based on that agreement.

The short line distance between St. Louis and Kansas City, Mo., is the same as the short line distance between Chicago and East St. Louis, Ill., although on the present basis of divisions the carriers between St. Louis and Kansas City, Mo., receive considerably less on the average than do the lines between Chicago and East St. Louis, Ill. The divisions via Kansas City, Mo., to and from Oklahoma points on the A. T. & S. F., G. C. & S. F., C. R. I. & P., and Missouri Pacific RRs having been agreed upon and approved by the Commission, it is assumed that those divisions are not under review, and when the traffic moves via East St. Louis thence an intermediate line between St. [fol. 1504] Louis and Kansas City, Mo., the Southwestern Lines south of Kansas City, Mo., receive the same revenue as on movement via the direct lines between Chicago, Ill., and Kansas City, Mo., so that the same revenue remains east of Kansas City, Mo., when moving via East St. Louis as the direct lines receive between Chicago, Ill., and Kansas City, Mo., which necessarily must be subdivided between the lines operating between Chicago and East St. Louis, Ill., with the carriers between St. Louis and Kansas City, Mo. (Tr. 6071-6073).

As pointed out in my testimony in connection with exhibit A-181, the divisions for the lines between Chicago and East St. Louis, Ill., are based on allowing those lines Missouri river proper revenue, in other words, the carriers between Chicago and East St. Louis, Ill., on traffic destined

Oklahoma points are receiving the same revenue as in division of the through rates between Chicago, Ill., and Kansas City, Mo., proper, although the through rates between Chicago, Ill. and Oklahoma points currently and for some years have been considerably less than the combination over Kansas City, Mo., as existed when the agreement was made some years ago to allow the carriers between Chicago and East St. Louis, Ill., Missouri river proper revenue.

On a mileage prorate or a rate prorate scheme as shown by Mr. Grace on exhibit A-243, the carriers between St. Louis and Kansas City, Mo., would receive practically nothing for that service, and in some cases would be obliged to assume a deficit when the traffic is received from or delivered to another line at Kansas City, Mo., and where the line from St. Louis, Mo., receives the through haul to Oklahoma destinations, or to a connection with another line at some interior Oklahoma junction, the earnings of the line from St. Louis, Mo., would scarcely exceed the earnings of [fol. 1505] the same line from Kansas City, and in some cases as pointed out the earnings from St. Louis, Mo., would be less than the earnings from Kansas City, Mo.

The hauls from St. Louis, Mo., to Oklahoma destinations exceed the hauls from Kansas City, Mo., to the same destinations considerably, and when the traffic is handled from St. Louis, Mo., to Kansas City, Mo., and there delivered to or received from another line, the haul of the carrier between St. Louis and Kansas City is equal to the haul between Chicago and East St. Louis, and on that account it appears that the carriers from St. Louis to Kansas City, Mo., ought to receive approximately the same revenue as do the carriers between Chicago and East St. Louis, Ill., although under the present basis of divisions they do not receive as much, due to the fact that the lines between St. Louis and Kansas City, Mo., assume the difference between the combination over Kansas City, Mo., and the division that accrues east thereof via the direct lines.

It does not seem possible that the Western Trunk Lines or the Interstate Commerce Commission would expect the carriers handling the traffic between St. Louis and Kansas City, Mo., to perform that service without compensation, or approximately no compensation, nor does it seem that the lines from St. Louis should be required to haul traffic for

the same revenue as from Kansas City, Mo., when the carriers from St. Louis, Mo., receive the through haul to or from Oklahoma points, or interchange the traffic at interior Oklahoma junctions. On the mileage or the rate prorate basis shown by Mr. Grace in exhibit A-243, if either were adopted, that would be the result. The haul between St. Louis and Kansas City, Mo., is constant, whereas, the hauls of the Western Trunk Lines are not constant (Tr. 6074-6076).

[fol. 1506] Exhibit A-243 indicates that the earnings of the Western Trunk Lines between Chicago and East St. Louis, Ill., at present in effect, but it should not be lost sight of that the Western Trunk Lines receive the same earnings to and from all other points in Illinois taking the same joint thru rates as shown on that exhibit to and from Chicago, although their hauls to and from other Illinois points are considerably less than are the hauls between Chicago and East St. Louis, Ill., (6075-6076).

If it is conceded or recognized that for the additional service St. Louis as compared with the service from Kansas City to Oklahoma destinations that the lines performing that additional service are entitled to a reasonable division in excess of the earnings they receive from Kansas City to Oklahoma origin or destination points, the mileage prorate or rate prorate basis shown on exhibit A-243 gives practically no recognition to that increased service, and unless the carriers that perform the service from St. Louis to Oklahoma destinations do receive a reasonable division above what they receive from Kansas City, there can be no incentive to a continuation of the St. Louis gateway as an interchange point on Oklahoma traffic. The haul from St. Louis, Mo., to Muskogee, Okla., via the St. L. & S. F. Ry. is 457 miles, and from Kansas City 345 miles. To Lawton, Okla., the distance from St. Louis over the St. L.-S. F. Ry. is 631 miles, and from Kansas City 469 miles. When the traffic is handled between St. Louis and Kansas City, Mo., over an intermediate line the distance via the short line from St. Louis, Mo., exceeds the distance from Kansas City, Mo., to all Oklahoma points by 279 miles (6076-6077).

The divisions between points in Western Trunk Line territory and Oklahoma points via Kansas City in connection with origin or destination points in Oklahoma on the A. T.

& S. F. Ry., G. C. & S. F., C. R. I. & P., and Missouri Pacific [fol. 1507] RRs. having been agreed upon and approved by the Commission effective July 1st, 1925, as result of which the lines east of Kansas City, Mo., received an advance in their divisions, and when and if the Commission fix the divisions via Kansas City to and from Oklahoma points on the M-K-T, St. L.-S. F., and the K. C. S. Rys., it seems reasonable that whatever the proportions are, or may be, east and south of Kansas City, that the proportions east of Kansas City, Mo., should be subdivided over St. Louis, Mo.-East St. Louis, Ill., instead of allowing the Western Trunk Lines between Chicago and other territories and East St. Louis, Ill., a percentage proportion of the local rates to or from Kansas City, Mo., as now in effect, because the joint through rates no longer reflect the full Kansas City, Mo., combinations as existed when the present basis of divisions was originally established, which at present allows the Western Trunk Lines a percentage based on the local rates to and from Kansas City, Mo. That would be on a mileage prorate; that is, if they had a mileage prorate, the earnings would exceed the local rate (Tr. 6076-6078).

By Examiner Disque:

Q. Referring to this and the preceding paragraph of what you have been reading is it the desire of the parties here that the Commission decide all those points, as to how those rates should be divided? Are you in this case trying to get these things settled on a so-called scientific basis, or what do you wish the Commission to do for you?

A. In my early testimony on this I merely pointed out what the divisions were and I said we had no complaint to make about it, and thought that the Western Trunk Lines were receiving sufficient when they were receiving Missouri river proper revenue, because Mr. Grace put in an exhibit here showing what the division would be over East St. Louis on a rate prorate or a milage prorate that would be greatly exceeding earnings of the Western Trunk Lines as [fol. 1508] compared with their present divisions. That is one reason I am pointing to this point here, pointing out why the rate prorate or the mileage prorate either should not be used. We are not complaining, Mr. Examiner, about the divisions necessarily by East St. Louis. We think that

the Western Trunk Lines are receiving sufficient as it is now. We are not complaining about it. But if those divisions should be increased to the Western Trunk Lines, then we would have serious complaint, and it would probably result in the East St. Louis gateway being closed. I am merely pointing out the inconsistency, as I see it, under the mileage prorate and rate prorate basis against the present basis.

Q. What I was trying to get at is the Commission will have to decide this case, and my question to you is whether you expect this Commission to pass on all the different divisions by the different gateways and tell you whether the rate should break on St. Louis or Kansas City on one commodity and not on the other; or that it should be on the constructive mileage prorate or on the mileage prorate, or on any other basis.

Mr. Towner: So far as I am concerned I do not expect the Commission to go into that detail in respect to divisions.

Examiner Disque: What do you expect?

Mr. Towner: I expect the Commission to prescribe some sort of mileage basis (6078-6079).

Examiner Disque: What sort of mileage basis, a mile and a half or a mile and a quarter?

Mr. Towner: Whatever the Commission finds to be proper between groups.

Examiner Disque: In the aggregate?

Mr. Towner: Yes, sir, and then we ought to be able to work it out.

[fol. 1509] Mr. Muckley: You mean without splitting up the territory?

Mr. Towner: You are gong into too much detail. In answer to Mr. Disque's question whether I expect to go into that detail, I will say I do not.

Mr. Muckley: You mean in each division?

Mr. Towner: What I meant was to take each rate on individual commodities, or anything of that sort. I do not intend that.

Mr. Muckley: I do not think the case could ever be decided if you did that, because it would take too long.

Commissioner Disque: I am only getting at whether you cannot tell us today just how we should proceed in this

case to reach a decision, whether all carriers in a group, all territory in a group, or whether we should split the southwest into three groups and say that Texas shall be so much on a mileage prorate, Oklahoma shall be so much, Arkansas something else (Tr. 6078-6080).

Mr. Muckley: There is a difference between the rest of Trunk Line territory, because of its heavy traffic density.

Mr. Towner: That is the way in which I expect to handle it, Mr. Disque. I think we all have the same idea on that.

Mr. Muckley: All have the same general idea, but not the same conclusions.

Mr. Towner: I do not expect to agree with you on conclusions.

Examiner Disque: Maybe you can agree on certain matters and leave the rest to the Commission.

Mr. Muckley: We tried to agree with Mr. Towner on certain matters but were not able to do it.

[fol. 1510] Mr. Towner: It was all give and no take as far as Towner was concerned. That was the only objection to your proposed agreements.

Mr. Muckley: I do not know what we asked you to give that you should be able to keep.

Examiner Disque: All right (6081).

The Witness: Exhibit A-245 presented by Mr. Grace shows divisions via East St. Louis on agricultural implements from Chicago, Ill., and automobiles from Kenosha, Wis., to several Oklahoma points. Taking up agricultural implements, that exhibit shows that on the basis of short line mileage prorate, the earnings of the Western Trunk Lines from Chicago to East St. Louis, Ill., would exceed the local rates from Chicago to East St. Louis, Ill., by 42.3 per cent, to Woodward, Okla., 35.7 per cent, to Oklahoma City, Okla., 25.1 per cent to Muskogee, 35.3 per cent to Enid, Okla., and 42 per cent to Ardmore, and that the lines from East St. Louis to the same Oklahoma points would receive about 25 per cent less than their local rate from East St. Louis. On the rate prorate basis shown on that exhibit the earnings of the Western Trunk Lines from Chicago to East St. Louis, Ill., are approximately the present earnings. The latter reflecting Missouri river proper earnings for the Western Trunk Lines, notwith-

standing the fact that the through rates are less than the full combination over Kansas City, Mo. Any change in the divisions via East St. Louis that would increase the proportions for the Western Trunk Lines as compared with the earnings the Southwestern Lines receive under the recent agreement approved by the Commission via Kansas City would naturally make the St. Louis gateway unattractive for the Southwestern Lines, as the earnings now received by the Southwestern Lines from St. Louis as compared with the earnings they receive from Kansas [fol. 1511] City reflect such a low spread that under the present basis of divisions the Southwestern Lines frequently in the past have been obliged to confine the application of the rates to the Kansas City gateway in connection with the direct lines on certain traffic because the difference in the earnings did not warrant performance of the additional service (6081-6083).

Exhibit A-245 shows the earnings from Kenosha, Wis., to East St. Louis on automobiles to several Oklahoma points. Kenosha, Wis., is located on the C. & N. W. Ry. and Chicago, North Shore & Milwaukee Ry. The latter line is not a party to the through rates. This exhibit shows the earnings at present in effect via East St. Louis, and what they would be on the basis of short line mileage prorate, and a rate prorate. On referring to Illinois Freight Association Division Sheet No. 3-C, which has been made a part of this record, on page 5 thereof, an exception is published for account of the C. & N. W. and the C. M. & St. P. Rys., that the divisions as published in that issue will not apply via or, to or from stations on the C. & N. W. or C. M. & St. P. Rys., although the exhibit under the heading of present divisions shows specifics from Kenosha, Wis., to East St. Louis, Ill., published in that issue, and quotes that issue as authority therefor. There are no divisions in Illinois Freight Association Division Sheet 3-C to or from points on the C. M. & St. P. or C. & N. W. Rys. via East St. Louis, Ill., on Oklahoma traffic and other western states named therein, except to and from points in Eastern Missouri (6083).

Mr. Grace presented his exhibit A-246, listing 12 Wisconsin cheese shipping points, from which the Chicago rate was authorized by the Interstate Commerce Commission

[fol. 1512] in Docket 15880, and on pages 5693 and 5694 of the transcript indicates that the proposed divisions shown in my exhibit A-168 does not contemplate any compensation to the lines north of East St. Louis for their additional service from the Wisconsin cheese producing points taking Chicago rates over and above the service from Chicago to East St. Louis. Chicago is not a cheese producing point, but whether it is or not, it follows that as the Commission have prescribed the same through rates from the 12 Wisconsin shipping points shown on Mr. Grace's exhibit A-246, as was authorized by the Commission from Chicago, that indicates the Commission have prescribed rates from the 12 Wisconsin shipping points that accord the carriers' origin to desination no greater revenue than from Chicago, so that the Commission have given no recognition in establishing rates that the average short line mileage from the 12 Wisconsin points to East St. Louis exceeds the short line distance from Chicago to East St. Louis by 38.4 per cent, and that being the situation as to the rates, I have applied the same principle to the divisions. There are similar situations in Texas involving greater hauls on the part of the Southwestern Lines in connection with the same rates than the average short line mileage from the 12 Wisconsin points to East St. Louis are in excess of the short line mileage from Chicago to East St. Louis. In other words, the commodity rate of $1.55 per 100 pounds from the Wisconsin shipping points in the Chicago Group have been extended over a wide territory to Northeast Texas extending from the Oklahoma-Texas border on the north to Dallas and Fort Worth, Texas, on the south, and from points immediately beyond the Arkansas-Louisiana border on the east to as far west as Dallas and Fort Worth, so that under my proposal less consideration was given to the service of the southwestern lines than was given to service of the Western Trunk Lines (6083-6085).

[fol. 1513] Another feature is that the "proposed percentages" shown in my exhibit A-166 as applying to Dallas, Texas, now apply to all points within Texas common point territory, whereas, there is a considerable variation in the rates as prescribed by the Interstate Commerce Commission from Wisconsin cheese shipping points in Chicago

group to Texas common points. For example the rate from Chicago Group to Paris, Dallas, Ft. Worth, Mineola, Longview and Marshall, Texas, is $1.37 per 100 pounds, and from Wisconsin Group to the same points $1.55 per 100 pounds. To Palestine, Nacogdoches, Houston and Galveston, the rates are $1.49 and $1.67 from Chicago and Wisconsin Groups respectively. To Austin, San Antonio and Sweetwater, the rates at $1.55 and $1.73 from Chicago and Wisconsin Groups respectively. Under the present basis of divisions, the Texas points referred to all being located in common point territory, the Western Trunk Lines receive the same percentage of the higher rates to Southern and Western Texas points named, as shown on my exhibit A-166 to Dallas, so that under the "proposed divisions" shown in my exhibit A-166, where the rates from Wisconsin points are the same as from Chicago, the same proportions would accrue to the Western Trunk Lines from Wisconsin shipping points in the Chicago Group as from Chicago when destined points in Texas to which the rate of $1.37 was authorized by the I. C. C., and similarly to points in Texas to which the same rate is in effect. However, to points located in Texas common point group to which higher rates are published than to Dallas, the Western Trunk Lines are receiving a greater division in cents per 100 pounds than on the same traffic from the same points to North Texas destinations by reason of the fact that from Chicago the division between Chicago and East St. Louis is 20 per cent on the Texas common point traffic, so that the Commission in fix-
[fol. 1514] ing the rates to South Texas points have given recognition to the greater service to those points as compared with North Texas destinations by fixing higher rates. The Southwestern Lines do not enjoy the entire increase under the present basis of divisions for the reason that the Western Trunk Lines receive greater divisions in cents per 100 pounds to South Texas points than to North Texas points. On the other hand, to North Texas destinations to which the rate of $1.37 from the Chicago Group has been authorized by the Commission, the inference from the testimony of Mr. Grace is that recognition should be given to the added service of the Western Trunk Lines from Wisconsin points in the Chicago Group over the service from Chicago to East St. Louis, and no recognition should be given to the

added service of the Southwestern lines to North Texas destinations to which the rate of $1.37 is in effect from the Chicago Group, although the added service of the Southwestern Lines from the border points to the principal consuming points is greater than the average short line mileage from Wisconsin points in the Chicago Group to East St. Louis as compared with the short line mileage from Chicago to East St. Louis (6085-6087).

Mr. Grace points out on page 5694 of the transcript, the third-class rate from Milwaukee to Dallas, Texas, is $1.58. That is the St. Louis third-class rate. The third-class rate from Milwaukee is $1.765 based on the third-class differential, 18.5 cents over the class rate from St. Louis.

On pages 5715 and 5716 of the transcript, Mr. Schmidt points out that the basis of divisions proposed in my exhibit A-152 of 21.5 per cent for the carriers between Chicago and East St. Louis on Little Rock traffic when applied to forest products has the effect of allowing the lines south of East St. Louis in excess of the local rates, and the lines north of East St. Louis less than their locals. Mr. Schmidt [fol. 1515] deals only with lumber destined Chicago, but as I understand it, Chicago is not the only point within Western Trunk Line territory to which lumber is shipped, and while it may be true that the effect of the proposed basis on shipments to Chicago would bring about the result as pointed out by Mr. Schmidt, I do not think that a basis of divisions should be condemned, using one destination point as an illustration, and because of the result at Chicago, the entire basis to all destinations within Western Trunk Line territory is automatically condemned. It is difficult, if not impossible for the carriers or the Commission to agree upon or order a basis of divisions for general application that will not result in one or the other group of lines in instances being allowed in excess of their local rates, and it is because of these conditions that it has been so difficult for the carriers to get together and lay down some general basis for application on all traffic (6087-6088).

As result practically all northbound commodities are subject to specific divisions, and as a result, frequent, prolonged and expensive conferences have been necesary in the past to bring about agreements in connection with each and every change in a point through rate. This has been due to

the lack of a general basis that could be applied on all traffic with a few possible exceptions, and it is my thought a plan of that kind if adopted ought not to be changed nor exceptions made thereto on certain commodities as in the past. This would enable the carriers to work together more smoothly and enable prompt publication of rates instead of delays that now result until divisions are agreed upon.

There is no basis of divisions that any carrier may propose, that the carriers as a whole may agree upon, or that the Commission may order into effect, that cannot be sub-[fol. 1516] ject to criticism if any scientific expert is so inclined. In other words, it is impossible to lay down a general basis of divisions that will not in some specific cases, and on certain commodities result in one group or another group of lines receiving in excess of its local rates. While it is generally a recognized principle of the carriers, and the I. C. C. have several times expressed themselves to the effect that no line or group of lines should receive in excess of their local rates in division of a through rate, it does, however, place an enormous burden upon the Accounting Departments of all lines when provision is made in division sheets restricting lines to local rates as maximum, and it has been the source of serious complaint by the American Association of Freight Accounting Officers (6088-6089).

By Examiner Disque:

Q. I did not know that generally they were, that generally the carriers were restricted to locals. You say in lots of cases they were and in lots of cases they were not. You say generally that is so?

A. Generally that is so, when provision is made in the agreement sheet, that they shall receive no more than their own rate.

Q. I know lots of cases where that is not so.

A. I am talking to the point that I think it ought not to be in the division sheets. That is what I am trying to make out.

Q. I know it.

A. The principle is all right, but it cannot be worked out.

Q. I sort of agree with you.

A. I think the lines are too narrow about those things.

You would be better off if you had specifics on every class, on every commodity. Take a lot of traffic moving between Chicago and all over the southwest, less carload as well as carload, if you have got to apply a percentage to every given rate and test that out against the local rate of [fol. 1517] each line, why they could not compile one month's account in one year, I do not think.

In I. C. C. Docket No. 15234, involving the settlements of divisions betwen Western Trunk lines and Transcontinental carriers via Missouri river crossings and Minnesota Transfer, the specific divisions on forest products from North Pacific Coast points to points within Western Trunk line territory were discontinued ——.

Q. Has that been approved by the Commission?
A. I understand so (6089-6090).

The Witness: I go on to say that the divisions were agreed upon and approved by the Commission.

Examiner Disque: No. The Commission does not know anything about it. That was settled by the carriers in conference last July.

Mr. Muckley: And no objection raised by the Commission. That is the fact, is it not?

The Witness: Yes.

Mr. Towner: That is the same case in which on other traffic we had an increase, according to Mr. Dana, of about $3,000,000 a year in our revenue. I will make the same settlement with the southwestern lines now.

Mr. Muckley: I should think you would. We will settle with you if you give us $3,000,000.

The Witness (continuing) —and the new merchandise percentages were substituted by agreement between the carriers with the approval of the Commission. This frequently results in the carriers west of the Missouri river receiving in excess of the local rates although the agreement made no provision restricting the carriers west of the Missouri river to their local rates. This is an instance where the merchandise percentages bring about a situation of one group of lines in certain instances receiving in excess of [fol. 1518] their locals, and which is the source of Mr. Schmidt's complaint to the basis that I proposed on Southwestern lumber, so that if we take into consideration all

of these individual situations where conditions of that kind may exist, the question of divisions between the carriers will be a never ending process of continued negotiations (6091-6092).

I do not know whether those lumber rates have been reduced so that the point that I refer to now is no longer in issue, but I recall that about 5 or 6 months ago at a conference in Chicago that the representative of the Union Pacific Railroad brought out the point that some of the Western Trunk Lines were holding the lines west of the Missouri river to their local rates on this lumber because their new percentages had the effect in some cases of allowing the lines west slightly in excess of local rates.

It appeared from colloquy of counsel that this was the result of some ruling of the Commission as to which a petition for a rehearing had been filed, but it was not shown whether or not it had been passed on. The comparisons made by Mr. Schmidt on pages 5715 and 5716 of the transcript takes into consideration the switching absorptions within the Chicago Switching District. An examination of Illinois Freight Association Tariff Bureau Tariff No. 22-R, I. C. C. No. 55, issued by C. W. Galligan, shows that about 61 per cent of the lumber receivers within the Chicago Switching District are located on Western Trunk Lines parties to this proceeding, 18 per cent on exclusive switching lines, and about 21 per cent of the lumber receivers within the Chicago Switching District are located on road haul carriers entering Chicago not parties to this proceeding. There are comparatively few lumber receivers located within the Chicago Switching District on the C. & E. I., C. & A., Wabash and I. C. R. Rs., the total number being about [fol. 1519] 30 on the four lines as compared with about 120 industries located on the C. B. & Q., C. M. & St. P., and C. & N. W. railways. This shows that more than 50 per cent of the absorptions on lumber within the Chicago Switching District made by the C. & E. I., C. & A., Wabash and I. C. Railways as shown by exhibit A-275 reflect absorptions by the lines specifically named to other Western Trunk Lines that are parties to this proceeding (6092-6094).

In other words, I take the position that exhibit A-275 should only have shown the switching absorptions at Chicago paid out by the C. & A., C. & E. I., Wabash and I. C.

Railways to road haul carriers not a party to this proceeding. Additionally the switching absorptions at Chicago that are paid to exclusive switch lines do not approach the allowances prescribed by the I. C. C. that are made by the Southwestern Lines to so-called Tap Lines, such allowances being absorbed wholly by the Southwestern Lines.

The switching absorptions on lumber at Chicago that are made by the C. & E. I., C. & A., Wabash and I. C. Railways reflect a competitive situation that the lines named must meet in order to handle lumber to industries served by the road haul carriers entering Chicago, such as the C. B. & Q., C. M. & St. P., C. & N. W., and others, whereas, in the Southwest the allowances to Tap Lines fixed by the I. C. C. is not a competitive situation, because the industries located on Tap Lines are not served by any of the direct road haul lines in the Southwest parties to this proceeding. The C. & E. I., C. & A., Wabash and I. C. Railroads actively solicit lumber traffic in the Southwest, and if their activities were confined to lumber industries located on their own rails, or on exclusive switch lines in the Chicago switching [fol. 1520] District, the situation portrayed on exhibit A-275 would not exist.

Because they do not actively solicit this lumber traffic in the Southwest to industries located on other Western Trunk Line road haul carriers, the Southwestern Lines apparently are expected to recognize their competition by increasing the divisions to the Western Trunk Lines named. That is the inference from the testimony of Mr. Schmidt as shown on pages 5715 and 5716 of the tran[illegible] A large percentage of the lumber going into the Chi[illegible] Switching District over the four lines previously named reflect a competitive situation that exists wholly as between the Western Trunk Lines themselves parties to this proceeding (6094-6096).

On page 5718 of the transcript, Mr. Schmidt stated, "so far as our line is concerned, and 90 per cent on the C. & E. I. Railway is the points at which we have to make these absorptions."

On referring to I. F. A. Tariff Bureau Chicago Switching Committee Tariff No. 22-R, I. C. C. No. 55, issued by C. W. Galligan, I check only 5 lumber receivers on the C. & E. I.

Railway, and as that tariff shows that about 60 per cent of the lumber receivers in Chicago are located on Western Trunk Lines road haul carriers parties to this proceeding, Mr. Schmidt's statement indicates that practically one-half of the lumber handled by the C. & E. I. Ry. is going to industries located on Western Trunk Lines road haul carriers parties to this proceeding within Chicago Switching District. This is a proceeding that involves the Western Trunk Lines as a whole as compared with the Southwestern Lines as a whole, so that about 50 per cent of the absorptions on lumber made by the C. & E. I., C. & A., Wabash and I. C. Railroads constitute payments that are made to other Western Trunk Lines parties to this proceeding (6096).

[fol. 1521] On page 5747 of the transcript, Mr. Schmidt pointed out: "The committee record was not clear as to the necessity for the proportional rates on Arkansas traffic, and further points out that because originally rates to Arkansas common points were based differentially over St. Louis, and to Arkansas local points the rates were based originally on combination using full locals south and proportionals north has resulted in a divisional basis which has been a source of constant trouble for a number of years, which will continue until such time as a clear and definite basis is placed into effect via the points at which the traffic is interchanged with Southwestern Lines."

The fact remains that the proportional rates referred to were published by the Western Trunk Lines and were filed with the I. C. C. There has been no controversy that I know of between the Southwestern Lines and the Western Trunk Lines in the past as to the divisions to either Arkansas common or local points.

I pointed out very clearly in my testimony that the Western Trunk Lines to Arkansas common points received their full proportional rates to East St. Louis in division of rates made on differential basis, notwithstanding the fact that the differentials used in the construction of the through rates were considerably less than the proportional rates to East St. Louis (6097).

I also pointed out that beginning with October 7th, 1913, when through rates were established to Arkansas local points based on the same differentials as existed in making

rates to Arkansas common points, that thereafter the Southwestern Lines allowed the Western Trunk Lines to East St. Louis their full proportional rates although to local points prior to October 7th, 1913, the joint through charge was made on combination using the proportional rates to Thebes, and the local rates beyond, and that in division of the proportional rates to Thebes, the Western [fol. 1522] Trunk Lines received from Chicago and points taking same rates to East St. Louis 65 per cent of the proportional rates to Thebes, which was and is the established basis for dividing traffic movement between Chicago and Cairo or Thebes via East St. Louis in division of local or proportional rates.

I also pointed out that when the through rates were established on October 7th, 1913, to Arkansas local points by the use of the differential basis it automatically reduced the through charge to the extent of the difference between the differentials over East St. Louis plus local rates south of East St. Louis on one hand, and the proportional rates to Thebes plus local south of Thebes on the other; and that the proportions for the Western Trunk Lines in connection with the reduced rates were increased to the extent of allowing those lines to East St. Louis their full proportional rates, whereas, in division of the higher rates immediately prior thereto, the Western Trunk Lines to East St. Louis received a lower division because 65 per cent north of East St. Louis of the proportional rates to Thebes allowed Western Trunk Lines a lower division than their full proportional rates to East St. Louis.

To my knowledge there has never been any controversy as to this between the Southwestern Lines and the Western Trunk Lines. Naturally because the divisions are expressed in specifics on each class or commodity at present and in the past, it has been and will be necessary in the establishment of new commodity rates in either direction that there be a specific understanding as to the divisions. This I attempted to cover in my testimony in which through percentages were suggested, the same to apply in connection with all joint through rates regardless of how made. If through percentages were established in the man- [fol. 1523] ner that I suggested, or as may be otherwise

agreed to, the necessity of negotiations between the Western Trunk Lines and the Southwestern Lines in connection with newly established rates would cease and ought to cease (6098-6099).

On page 5747 of the transcript, Mr. Schmidt points out that prior to the establishment of through rates to local points in Arkansas, the Southwestern Lines insisted that the lines north of East St. Louis from Chicago were not entitled to any greater division than 65 per cent of the proportional rates applicable between Chicago and Thebes, Ill. That division is not one in which the Southwestern Lines are interested. The division referred to is one that has been and is still in effect on traffic handled under local or proportional rates between Chicago and Cairo-Thebes via East St. Louis between the Illinois Lines. The Missouri Pacific Railroad between East St. Louis and Cairo-Thebes was and is an Illinois line in the division of local or proportional rates between Chicago and Cairo-Thebes, Ill., via East St. Louis, and the division referred to by Mr. Schmidt was and is a matter of agreement solely between the Illinois Lines, so that insofar as traffic moving between points within Western Trunk Line Territory and Arkansas local points prior to October 7th, 1913, was concerned, the division of the proportional rate to Thebes was a matter wholly between the Illinois Lines (6099-6100).

In saying that I considered the Missouri Pacific an Illinois line. On local traffic, I would not want to say about the Cotton Belt. They operate on the Missouri Pacific rails on the east side of the river from Thebes to East St. Louis. At no time within my memory have the Southwestern Lines insisted upon the Western Trunk Lines accepting from Chicago 65 per cent of the proportional rates to Thebes for [fol. 1524] their service north of East St. Louis on traffic destined Arkansas common points. They have always allowed the Western Trunk Lines their full proportional rates to East St. Louis except that on and after August 26, 1920, in connection with through rates established under I. C. C. Ex Parte 74, the Western Trunk Lines have been allowed their proportional rates between Chicago and East St. Louis as of June 25, 1918, advances 35 per cent instead of 40 per cent, due to the fact that the through rates were

advanced 35 per cent and in that respect the Southwestern Lines by agreement with the Western Trunk Lines increased the proportions between Chicago and East St. Louis in the same measure as the through rates were advanced (6100-6101).

On pages 5748 and 5749 of the transcript, Mr. Schmidt states: "It has been the practice of the Southwestern Lines to publish rates to Thebes, Ill.—considerably lower than the rates to St. Louis, Mo. The reason for that was apparent. It permitted the Southwestern Lines to receive full rates to Thebes, Ill., plus a division of the Northern Lines' rates from Thebes, which division result- in practically every case in excess of what would accrue to them had the rates to Thebes, Ill., been properly aligned with those in effect to St. Louis, Mo., or vice versa."

The Southwestern Lines have always published through rates from Cairo-Thebes on a lower level than from St. Louis, Mo., and East St. Louis, Ill. The distance from St. Louis, Mo.—East St. Louis, Ill., is about 150 miles greater than from Cairo-Thebes, Ill., to Arkansas points, and the I. C. C. in fixing the rates under the 9702 scale authorized a higher basis of rates from St. Louis, Mo.—East St. Louis, Ill., than from Cairo-Thebes, Ill., to and from Arkansas points. The rates under the 9702 scale were based on distances, so that the voluntary action of the carriers prior to the 9702 scale seems to have been followed out by [fol. 1525] the Commission under the 9702 scale in publishing lower rates from Cairo-Thebes, Ill., to and from Arkansas points than to and from St. Louis Mo.-East St. Louis, Ill.

Certainly the Southwestern Lines in fixing the rates between Cairo-Thebes, Ill., on a lower level than between St. Louis-East St. Louis and Arkansas points did not have in mind the point raised by Mr. Schmidt that the purpose of establishing lower rates to and from Cairo-Thebes, Ill., was to make a lower through charge to and from Chicago than over St. Louis-East St. Louis. If the Southwestern Lines can be so charged then the I. C. C. can also be so charged, because as previously pointed out the I. C. C. have fixed lower rates between Cairo-Thebes, Ill., and Arkansas points than to and from St. Louis, Mo.-East St. Louis, Ill., under the 9702 scale.

Following out Mr. Schmidt's statement, the question naturally arises, why do and why have the Western Trunk Lines published higher rates between Chicago and Cairo-Thebes than East St. Louis, Ill. proportional and local. The Western Trunk Lines may have defeated the Cairo-Thebes combination if they had published in their own tariffs the same proportional rates to and from Cairo-Thebes as to and from East St. Louis. Possibly the Western Trunk Lines can explain why they published higher local and proportional rates to and from Cairo-Thebes than East St. Louis (6102-6103).

The distance between Chicago and Cairo-Thebes as compared with the distance to and from East St. Louis evidently influenced the higher rates. The I. C. C. had this point in mind in fixing the rates for the Southwestern Lines under the 9702 scale, Cairo-Thebes versus East St. Louis. It seems to me that Mr. Schmidt's statement is out of all reason in charging bad faith on the part of the Southwestern Lines in the fixing of rates in Southwestern territory when [fol. 1526] the same rate situation exists within Western Trunk Line territory. The inference is that distance should be considered in fixing rates within Western Trunk Line territory, but should be disregarded in Southwestern Territory.

On page 5751 of the transcript, Mr. Schmidt points out that the Southwestern Lines accorded the Eastern Lines on traffic to and from the territory east of the Illinois-Indiana state line, the 5 per cent advance in their proportion and that after a long siege of negotiation the Southwestern Lines made the same allowance to the Western Trunk Lines. The Southwestern Lines, immediately following the 5 per cent advance in the local and proportional rates between Chicago and East St. Louis, increased the proportions to the Western Trunk Lines correspondingly, and while it is true there was considerable discussion thereafter, in regard to the matter, the basis was never changed, so that the Western Trunk Lines from the date that the proportional rates were advanced 5 per cent, received that increase thereafter. The through rates were not increased in the same measure (6103-6104).

On page 5752, Mr. Schmidt made the following statement: "Throughout the testimony of the witnesses of the South-

western Lines I find particular emphasis on the Milwaukee-Texas differential basis, whereunder the lines north receive 15 per cent plus 20 per cent of the remainder for the service to East St. Louis. The demands of the Southwestern Lines for full rates to Thebes, Ill., plus 35 per cent of the rate or division north however seems to be proper according to the witnesses for the Southwestern Lines."

The division of 15 per cent north of Chicago, plus 20 per cent of the remainder for the Western Trunk Lines is applicable only southbound to Texas, and only in connection with certain routes and carriers. At no time on Texas [fol. 1527] traffic have the Southwestern lines demanded their local to or from Thebes, Ill., plus 35 per cent of the rate or division north of Thebes for their service to or from East St. Louis, except on commodities, if any, where the through rates have been constructed on the combination of locals over Cairo-Thebes, Ill., and that condition exists only in connection with some northbound commodities where the rates are only built upon the Thebes combination. In cases of that kind the subdivision of the rate or the proportion north of Thebes, via East St. Louis in so far as the Missouri Pacific and the Cotton Belt Lines are concerned is a divisional matter between the Illinois Lines, or the Western Trunk Lines, and is not involved in this case (6104-6105).

Answering Mr. Towner's questions as to whether I mean to say that for the purpose of making that division the Missouri Pacific and Cotton Belt are Western Trunk Lines and that the subdivision of the rates or the proportion north of Thebes via East St. Louis is a Western Trunk Line matter and not involved in this case, I say that they are Illinois lines, and they are Western Trunk Lines so far as that division is concerned. Where your rates are built up on combination over Thebes, just the same as if you had no through rate. If you had no through rate there would be no question about it, and when you have used a combination and built up a through rate there should not be any question about it.

In this particular, we are treating the Missouri Pacific and the Cotton Belt as Western Trunk Lines for the purpose of fixing this division. On page 5753 of the transcript Mr. Schmidt points out that the first class rate to Higginson,

Ark., the first point immediately south of Bald Knob, Ark., to which through rates were in effect on the differential basis, was the same as the combination rate to Bald Knob, [fol. 1528] and somewhat lower on the remaining classes, and also pointed out that the shrink in the proportions of the Southwestern Lines as shown by numerous examples, results from their own decision to place these rates on the differential basis, Chicago over East St. Louis of their own volition, without the concurrence or knowledge of the Illinois Lines. Higginson, Ark., was and is a common point immediately south of Bald Knob, Ark., and the fact that the combination over Thebes on October 6th, 1913, was on first-class to Bald Knob, the same as the through first-class rate to Higginson, was probably a coincidence, however, Mr. Schmidt confirms what I have pointed out that on all of the classes to Bald Knob the combination over Thebes exceeded the through rates to Higginson, the next common point beyond. As to the publication of joint through rates on the differential basis to and from Arkansas local points, that action was not taken of their own volition, and without the knowledge of the Illinois Lines. That action was necessary because the combination over Thebes in practically all cases exceeded the through rates made on the differential basis to Arkansas common points immediately beyond, so that as a result, Fourth Section violation existed (6105-6107).

The rates between St. Louis and Cairo-Thebes to and from Arkansas local points as compared with competitive points were properly aligned, there being no Fourth Section violations, but there were Fourth Section violations on the traffic from Western Trunk Line points because differentials that were used in constructing through rates to and from Arkansas common points were lower than the proportional rates published by the Western Trunk Lines which were used in constructing the through rates to and from Arkansas local points. The rates between points in West- [fol. 1529] ern Trunk Line territory and Arkansas are published by Agent F. A. Leland, and the Western Trunk Lines have given Agent Leland power of attorney to act for their account, so that it cannot be said that the publication of through rates to and from Arkansas local points was without the knowledge or concurrence of the Western Trunk

Lines. It seems unfair tnat the Southwestern Lines, individually or collectively, should be censured because of the action of the Western Trunk Lines in giving Agent Leland power of attorney to act for their account (6107-6108).

On page 5754 of the transcript, Mr. Schmidt refers to my exhibit A-143, and points out that on October 6th, 1913, division north of East St. Louis was 62.7 per cent of the local rate north, wherein revenue to the southwesthern lines was in excess of their local rates from East St. Louis. This has reference to the division to and from local points in Arkansas, prior to the publication of joint through rates. The Southwestern lines handling the traffic through Thebes, Ill., prior to the establishment of joint through rates, received their local rates to or from Thebes, Ill., because the rates were constructed on the Thebes combination. The Missouri Pacific and the Cotton Belt, when those lines received the haul to or from East St. Louis, received a division of the proportional rates between Chicago and Thebes, which was a matter wholly between the Illinois Lines, as the Missouri Pacific and the Cotton Belt, strictly speaking, in the division of local or proportional rates between Chicago and Thebes, were and are Illinois Lines, and the divisions between Chicago and Thebes-Cairo via East St. Louis are not involved in these proceedings. The situation [fol. 1530] pointed out by Mr. Schmidt, did not exist on and after October 7th, 1913, and does not exist at the present time, because I have shown on my exhibit A-143, the shrink Southwestern Lines are making below their local rates from East St. Louis are very substantial. Mr. Schmidt gives some examples on page 2-A of his exhibit A-251 of the situation as it existed on October 6th, 1913, to local points in Arkansas, showing that the Southwestern Lines received in excess of their local rates from East St. Louis. This was also referred to in his testimony on pages 5754 and 5755 of the transcript, and I have pointed out before that the Missouri Pacific and the Cotton Belt in the division of rates between Chicago and Thebes, Ill., were not Southwestern Lines, but were Illinois Lines, so that the total revenue received by the Missouri Pacific south of East St. Louis in division of combination rates made over Thebes, did not reflect the revenue of the Missouri Pacific and Cotton Belt as Southwestern Lines at that time (6108-6110).

The proportions that the Missouri Pacific and the Cotton Belt received south of Thebes at that time did reflect our revenue as Southwestern Lines. Mr. Schmidt pointed out on pages 5754 and 5755 of the transcript that "some thought should be given to the measure of the divisions in effect prior to the rate changes before serious consideration can be given to the statements that the Southwestern Lines have been penalized by the rate and divisional changes." The question of the division between Chicago, Ill., and Cairo-Thebes, Ill., via East St. Louis in division of local or proportional rates is not involved in this case, and the divisions of the rates in effect October 6, 1913, between Chicago and Thebes of 65 per cent north of East St. Louis and 35 [fol. 1531] per cent south, are still in effect and reflect an agreement of long standing between Illinois Lines.

Regardless of that, it was pointed out in my testimony that immediately following establishment of joint through rates to and from Arkansas local points on October 7, 1913, Southwestern lines allowed the Illinois Lines their full proportional rates to and from East St. Louis, the effect of which forced the Southwestern Lines to assume the shrink in the through rates as compared with the combination in effect previously, and that the Southwestern Lines also assumed the increase in the divisions to the Western Trunk Lines (6110-6111).

On page 5755, Mr. Schmidt refers to page 3 of his exhibit A-251, pointing out that the current through rates, using the average of the ten classes, reflects an increase of 69.9 per cent over the average of the ten class rates on October 7, 1913, but that the divisions of the Southwestern Lines have increased 89.4 per cent. The latter figure is in error. It should be 74.4 per cent. Mr. Schmidt entirely overlooks that there have been many readjustments in the rates between St. Louis, the base point and points in Arkansas between October 7, 1913, and June 24, 1918, and under the 5702 scale, but no changes were made in the differentials during that period, nor in the divisions of the Western Trunk Lines. St. Louis, Mo., always was the basing point, rates to and from Western Trunk Line Territory being made on stated differentials over the base point, and as changes in the base point rates were made, corresponding changes followed to and from Western Trunk Line points.

The Western Trunk Lines at all times received their full proportional rates, but Mr. Schmidt did not point out that the Southwestern Lines at all times received less than their full local rates. The percentage advance in the divisions [fol. 1532] of Southwestern Lines followed the percentage advance in the base point rates. There is a comparatively small difference between 69.9 per cent and 74.4 per cent, which Mr. Schmidt should have mentioned instead of 89.4 per cent, the slight difference being caused principally by the readjustment in the rates to and from the base point St. Louis, Mo., made by the Interstate Commerce Commission in Docket 9702, to which no contribution was made by the Western Trunk Lines because through rates to and from Western Trunk Line territory continued to be made on the same stated differentials as were used before the 9702 scale over the base point St. Louis, Mo. (6111-6112).

On page 5755 of the transcript Mr. Schmidt refers to page 4 of his exhibit A-251 and points out that the Southwestern Lines reduced the rates and voluntarily increased the division to the Western Trunk Lines. That is exactly what occurred, and is shown by my exhibit No. A-143, and it is on that account that I suggested a change in the basis. There are, in fact, few if any instances where joint through rates are reduced, and that one group of carriers [illegible]ed proportions at the expense of the other group [illegible]rriers, which is exactly what was done in this case, that is, the Southwestern Lines, in connection with the reduced rates increased the proportions to the Western Trunk Lines. On page 5 of Mr. Schmidt's exhibit A-251 two sets of divisions are shown, and on page 5755 of the testimony Mr. Schmidt shows the result of each basis.

Bald Knob, Ark., is used as an example. There is only one basis of divisions in effect and actually used to and from local and competitive points on the Missouri Pacific R. R. in Arkansas, and that is the basis as shown in the first block on page 5 of exhibit A-251. In other words, the Missouri Pacific is allowing all Western Trunk Lines on traffic inter- [fol. 1533] changed at East St. Louis the specifics published in Illinois Freight Association Division Sheet No. 5 to East St. Louis. We have not, and are not, prorating the Thebes specifics via East St. Louis. Mr. Schmidt on page 5750 of the transcript so stated.

The Missouri Pacific R. R. could, if we were so disposed to prorate the specifics north of Thebes via East St. Louis, but have not done so, as admitted by Mr. Schmidt in his testimony, nor have the Missouri Pacific prorated the Thebes specifics via East St. Louis following the publication of joint through rates on October 7, 1913, to and from Arkansas local points, nor have the Missouri Pacific, at any time, taken that action to and from Arkansas common points (6112-6113).

Mr. Schmidt also points out that on the basis shown in my exhibit A-143, applied by the Missouri Pacific on Bald Knob traffic, the lines north receive 30 per cent of the through rates and perform 49 per cent of the haul. That may be true, and if it is, it is because the proportional rates of the Western Trunk Lines between Chicago and East St. Louis, versus the local rates East St. Louis to Bald Knob reflect a similar condition, as shown by my exhibit A-143, and the Western Trunk Lines are receiving practically their full proportional rates between Chicago and East St. Louis currently, but the Southwestern lines are receiving considerably less than their local rates in division of the joint through rates that are considerably less than the combination of proportional rates to East St. Louis, and the local rates beyond. Any line that refuses to accept their local or proportional rates in division of a through rate that is less than the combination is beyond redemption.

[fol. 1534] On page 5756 of the transcript, Mr. Schmidt refers to page 6 of his exhibit A-251, pointing out that the lines between Chicago and East St. Louis on Little Rock traffic received 29.2 per cent in 1896, 32.3 per cent in 1898, and at present 28 per cent of the through rates. He also points out the division received by Southwestern Lines currently reflect an increase over the 1898 division in excess of that made in the through rates, and indicates on that basis no shrink has been made by the Southwestern Lines contrary to what I pointed out in my exhibit A-143.

Here again Mr. Schmidt fails to mention the cause which was due to readjustments in the rates between St. Louis, Mo.-East St. Louis, Ill., and Arkansas points, some advances and some reductions, and as the rates from Chicago are made differentially over whatever rates may be established to or from St. Louis, and as the carriers between

Chicago and East St. Louis receive specifics in cents per 100 pounds on each class, it naturally follows their division would not fluctuate, but the proportions of the Southwestern Lines should fluctuate to the same extent as in their local rates (6113-6115).

One of the adjustments I refer to is the fixing of rates by the I. C. C. in the 9702 case between Arkansas points and St. Louis, Mo.-East St. Louis, Ill., and various Missouri river and Mississippi river crossings. Using Mr. Schmidt's argument, if rates between Chicago and points in Arkansas currently were on the combination of locals over East St. Louis, and there would be an advance in the rates between Chicago and East St. Louis, which would be reflected by a corresponding increase in the through rates between Chicago and Arkansas points, the Southwestern Lines would be entitled to all or part of that increase on his theory. I do not imagine the Western Trunk Lines would concede [fol. 1535] that point, but it is exactly the basis of the argument as outlined by Mr. Schmidt in his testimony on page 5756 of the transcript.

On pages 5756 and 5757, Mr. Schmidt refers to page 3 of my exhibit A-142, dealing with the question of divisions on traffic from Milwaukee to Arkansas, in which I pointed out that Southwestern Lines reduced their revenue in 1898 to the extent of the reduction in the differentials from Milwaukee to the basis of the Chicago differentials, and also points out that in his opinion there should be first taken into consideration whether or not the 1898 divisions were proper. I might quote for the information of this record, the following from Chicago & St. Louis Traffic Association Joint Proportional Freight Tariff No. 1, I. C. C. No. 4, issued by Horace Tucker, which bears, C. & E. I., G. F. D. No. 1158 of 1905. This is a Western Trunk Line Tariff, in which the following exception is published on Arkansas traffic—"the proportional rates provided herein will not be used on traffic destined to or coming from Arkansas common points or points basing thereon where through tariffs upon a lower basis are in effect, but these proportional rates must in all cases be exacted north of East St. Louis, Cairo, Gale and Thebes in the division of such through rates" (6115-6116).

This exception in the tariff referred to, issued by the Western Trunk Lines' Chairman at that time, indicates clearly that the proportional rates in that tariff, and which are the divisions that I have referred to, were demanded and required by the Western Trunk Lines and were not the divisions that the Southwestern Lines arbitrarily forced upon the Western Trunk Lines, but the divisions referred to were arbitrarily demanded by the Western Trunk Lines, using their own language and forced upon the Southwestern Lines. Whether these divisions are fair or not, apparently was not a matter of choice as far as [fol. 1536] the Southwestern Lines were concerned, but were divisions that were "required" by the Western Trunk Lines according to the language quoted in their own tariff. The tariff referred to bears the following numbers for account of individual lines:

C. & A. G. F. D. No. 16118; C. B. & Q. G. F. O. No. 20447; C. & N. W. shown on title page without any specific tariff number; I. C. R. R. Tariff No. A-15334; Wabash Ry. No. 37135; C. M. & St. P. G. F. D. No. 50947; C. P. & St. L. G. F. O. No. 4845; C. G. W. G. F. D. No. B-2041; E. J. & E. Division Sheet No. 3129 and Vandalia R. R. No. E-3532.

I think this points out clearly that the divisions received by the Western Trunk Lines are clearly of their own choice and making, and how any line or group of lines can consistently condemn a basis that is of their own making is difficult to understand, particularly now that it is condemned and made to appear as if the divisions were arbitrarily made by the Southwestern lines (6117-6117).

On page 5757 of the transcript, Mr. Schmidt refers to page 6-A of his exhibit A-251, and compares the ton mile earnings of the Southwestern Lines in 1896 as compared with 1898, and admits there was a reduction in the Southwestern Lines' earnings occasioned by placing Milwaukee, Wis., on the Chicago basis, but still contends that the 1898 divisions do not seem to be fair to the Northern Lines. This, notwithstanding the fact that I have repeatedly pointed out that the Western Trunk Lines were receiving their proportional rates in division of through rates that were less than the combination of proportionals and locals over East St. Louis, and that these divisions were the result of requirements by the Western Trunk Lines and not

by any demand on the part of the Southwestern Lines, so that the divisions now condemned by the Western Trunk [fol. 1537] Lines are divisions of their own choice and requirements.

Regardless of the ton mile earnings, which is largely reflected by the rate levels in Western Trunk Line territory, as compared with the rate levels in Southwestern Territory, I cannot see how any group of lines can complain when in division of through rates less than the combination over the interchange point they receive their full proportional rates, and which they have demanded as their division of such through rates (6117-6118).

Mr. Schmidt also points out on page 5757 of the transcript that—"whatever reduction was made seems to have been recovered as the current divisions will indicate." Here again the Western Trunk Lines seem to think that they should receive a part of the increases in the rates made by reason of various readjustments from St. Louis and Cairo to points in Arkansas, and not because of any increase made in the rates within Western Trunk Line Territory as previously pointed out. Mr. Schmidt also speaks of the fairness of the original factor as not having been determined. That factor as previously pointed out was a divisional requirement of the Western Trunk Lines and not one of the Southwestern Lines.

On page 5758 of the transcript Mr. Schmidt refers to page 8 of his exhibit A-251, pointing out in 1896 the lines between Chicago and Cairo, Ill., on Little Rock traffic received 33.3 per cent of the rate and performed 59.7 per cent of the haul; in 1898 they received 37 per cent of the rate and performed 59.7 per cent of the haul, and at present receive 32 per cent of the rate and perform 59.7 per cent of the haul. The first two illustrations reflect merely the rate [fol. 1538] levels within Western Trunk Territory, as the Western Trunk lines received their full proportional rates to Cairo, however, the Southwestern Lines did not receive their full local rate from Cairo to Little Rock, so that the revenues of the Southwestern Lines are lower than reflected by their rate levels. That feature was not pointed out by Mr. Schmidt (6118-6119).

On pages 5759, 5760 and 5761, Mr. Schmidt comments upon the basis of divisions proposed between points in

Western Trunk line territory and Arkansas points via East St. Louis and via Cairo-Thebes in my exhibits A-152 and A-153, and points out that the Southwestern lines have criticized the Northern lines as to the Milwaukee-Texas divisions via Chicago, which has reference to the compounding divisions, and indicates that I suggested a basis similar on Arkansas traffic. There is considerable difference between the present compound divisions on Milwaukee-Texas traffic via Chicago than what I proposed on Arkansas traffic. The basis for the divisions shown in my exhibit A-153 of 21.5 per cent north of East St. Louis between Chicago territory and Little Rock indicates what the Western Trunk lines would receive at present in the event no joint through rates were in effect, and no proportional rates were in effect between Chicago territory and East St. Louis or Thebes, Ill. It indicates clearly in that even the combination of locals over Thebes would make the lowest through charge, and the carriers north of East St. Louis would receive 65 per cent of the local rates, Chicago territory to Thebes for their service to East St. Louis. Now then can the Western Trunk Lines expect to receive a greater division in connection with through rates that are lower than the combination over Thebes, Ill. The Southwestern Lines are not responsible for the rates in effect within Western Trunk Line territory, and it seems clear to me that the Western Trunk Lines cannot [fol. 1539] expect more than 65 per cent of the local rates to Thebes for their service between points within Chicago territory and East St. Louis, because that is exactly what they would receive if no joint through rates were in effect at present. It seems clear to me that with joint through rates in effect on a differential basis over rates from St. Louis, which is lower than the lowest combination that would obtain if no joint through rates were in effect, and the Southwestern Lines propose a basis that will give Western Trunk lines the same revenue as they would receive if no joint through rates were in effect, that no fairer basis could be proposed, because it has the effect of the Southwestern lines assuming the difference between the lowest combination and the through rates. My exhibit A-153 shows the present through rates between Chicago territory and Little Rock as well as the combination of

locals over Cairo-Thebes, and over East St. Louis, and the difference between the lowest combination and the present through rates can be seen clearly on that exhibit. On the basis that I proposed the Southwestern lines would not be compounding their revenue, and it is entirely dissimilar to the present Milwaukee-Texas compounded divisions via Chicago. I also proposed that via Cairo-Thebes, the Western Trunk lines receive the spread in their local rates, Chicago territory to Thebes over East St. Louis, in addition to the division proposed to East St. Louis. This is exactly what the Western Trunk lines receive on traffic handled locally between Chicago territory and Thebes as compared with traffic handled locally between Chicago territory and East St. Louis (6119-6121).

On page 5761 of the transcript, Mr. Schmidt states,—"it seems that the 65 per cent and 35 per cent basis will never be lost sight of by the Southwestern lines regardless of the impropriety of that basis." That is a division that has been in effect for a number of years between the Illi- [fol. 1540] nois lines between Chicago territory and Cairo-Thebes via East St. Louis, and as I pointed out in my testimony, is an exact mileage prorate. That is a basis that is not involved in this proceeding, because it applies between Illinois lines, and as between Illinois lines I do not know that it has ever been questioned. Furthermore, Chicago territory is quite large, and it allows lines north of East St. Louis the Chicago proper mileage as their factor to and from all points taking the Chicago rates although the distance from a number of points in Illinois to East St. Louis is less than it is from Chicago to East St. Louis. No more favorable basis could be worked out for the Western Trunk lines north of East St. Louis.

On page 7 of Mr. Schmidt's exhibit A-251, divisions are shown between Milwaukee, Wis., and Little Rock, Ark., via East St. Louis, and shows that the divisions currently received by the Western Trunk Lines are 77 per cent of the local rates, and the divisions of the Southwestern lines are 79.5 per cent of the local rates. That shows the Western Trunk lines and the Southwestern lines are each receiving very nearly the same percentage of their local rates on the present basis of divisions (6121-6122).

On page 7 of the same exhibit, the current divisions between Minneapolis, Minn., and Little Rock, Ark., are shown, but no comparison has been made as in the case of Milwaukee, Wis., shown on the same page that the divisions Minneapolis, Minn., to East St. Louis currently exceed the local rates to East St. Louis. That point was brought out clearly on my exhibit A-142, page No. 4, and my exhibit shows that the Southwestern lines on the current basis of divisions are receiving considerably less than their local rates. On 8 of the 10 classes the Western Trunk lines receive in excess of their local rates between Minneapolis and East St. Louis, although no mention was made of that [fol. 1541] by Mr. Schmidt in his testimony, nor on page 7 of his exhibit A-251.

In my testimony I pointed out that when Milwaukee differentials were discontinued, and the Chicago differentials extended to apply to and from Milwaukee territory, that the Southwestern lines made no change in the divisions to the Western Trunk lines, and that this had the effect of the Southwestern lines assuming the entire shrink. I also pointed out that from Fox river territory, which includes Minneapolis, Minn., that the same reduction was made as from Milwaukee territory, and that the Southwestern lines again assumed the shrink, because divisions formerly received by Western Trunk lines in connection with the higher differential basis were continued. I also pointed out in my testimony in connection with my exhibit A-154, that the Western Trunk lines currently publish between Milwaukee, Wis., and Mississippi and Ohio river crossings, proportional and local rates within their own territory, higher than rates from Chicago, and similarly to Mississippi Valley points, but that on traffic between Milwaukee territory and the Southwest the same differentials were employed in making joint through ratee as to and from Chicago territory, and that a similar situation exists on Minneapolis-St. Paul territory. That is the reason why I pointed out Southwestern lines should receive Chicago revenue currently on traffic to and from Milwaukee and Fox river territories, which the Southwestern lines originally received when Milwaukee territory was on a higher differential basis tahn Chicago territory (6122-6124).

On traffic between Milwaukee and the so-called Trans-Missouri territory, Chicago percentages are applied east and west of the Missouri river on traffic to or from Milwaukee. Although the rates from Milwaukee are on the same basis as Chicago, and as the Western Trunk lines do not dispute the divisions via Missouri river crossings to and from Trans-Missouri territory, recently agreed to and ap- [fol. 1542] proved by the Commission based on Chicago percentages east and west of the Missouri river, it seems to me there is every reason why the Southwestern lines on Milwaukee and Fox river traffic should receive Chicago revenue.

On pages 5761 and 5762 of the transcript, reference is made to my exhibit A-155 on potatoes from certain Minnesota points to Little Rock, Ark., via St. Louis, Mo., in which it is shown in one instance that the divisions received by the Western Trunk lines is the same as the local rate to East St. Louis, and the division of Southwestern lines is 11.5 cents less than the local rate, East St. Louis to Little Rock, and in another case shown in that exhibit the division north of East St. Louis is 3 cents less than the local, and south 11.5 cents less than the local. Mr. Schmidt states, "the fact, therefore, that lines north are receiving their local rates on that particular traffic, and lines south less, is not pertinent." I fail to understand that testimony. It may not be pertinent to the Western Trunk lines, but it is pertinent to the Southwestern lines. It indicates that whatever opinion the Western Trunk lines may have of the divisions currently in effect in division of through rates on potatoes that accord the Northern lines their local rates or very near the local rates, and the Southwestern lines considerably less than their locals, apparently has merit, but when the situation is reversed the merit disappears. This was pointed out by Mr. Schmidt as shown on page 5762 of the transcript in connection with my exhibit A-156 on cheese, although in the latter case the lines north of East St. Louis are receiving 1 cent per 100 pounds less than their proportional rates to East St. Louis. The through rates are considerably lower than the combination of proportional and local rates over East St. Louis. In that case Mr. Schmidt [fol. 1543] compares the division north of East St. Louis with the local rate to East St. Louis, although the local rate

would never have been used in the construction of a joint through rate, but the proportional rate would have been used had no through rates been in effect (6124-6126).

On page 5763 of the transcript, Mr. Schmidt calls attention to the point I raised, that in division of many commodity rates on which there are no commodity specifics published, Western Trunk lines receive class specifics, and objects to the proposal I made to allow the Western Trunk Lines the same percentage of their class division that the through commodity rate is of the through class rate on the ground that if a commodity rate bears no relation whatever to the class rate that basis is improper. He also expressed the belief that as the proportions north are unduly low, the result by application of a still lower basis works entirely to the advantage of the Southwestern lines. It is true that the basis I proposed will work to the advantage of the Southwestern lines. The basis as it now stands works entirely to the disadvantage of the Southwestern lines, and to the advantage of the Western Trunk lines. In the establishment of commodity rates to and from the Southwest, there is no standard basis, that is, commodity rates are not established based on a given or standard percentage of the class rates. When commodity rates are established they are based on various conditions, such as competition in effect from producing points in other territories, market conditions, and rates that the traffic will bear. Necessarily a commodity rate established with all of these conditions taken into consideration naturally will not reflect a standard percentage of the class rates, however, whatever the commodity rates may be they naturally bear a percentage relation to the class rate. It is necessarily to establish commodity rates that will move the traffic, and it does not fol- [fol. 1544] low that any uniform relationship of commodity rates to class rates would result in through rates that would enable shippers to market their products, and even if there was a fixed relationship there would still remain the necessity of establishing through percentages. It is possible if some fixed relationship was adopted it may result in lower through rates than now in effect on some commodities, in other cases possibly it may result in higher through rates than now in effect on some commodities. In

other words, as I understand Mr. Schmidt's argument, if there was a fixed relationship, commodity rates versus class rates, the principle of my proposal would be acceptable, but because there is not a fixed relationship, my proposal is objected to. The objection does not seem to be logical, because on traffic moving between points in Western Trunk line territory and destinations in other territories between which percentages are applied, the same question is involved although not objected to be the Western Trunk lines. As example, through percentages are in effect between points in Western Trunk line territory and all Mississippi valley points on a percentage basis, and there are very few exceptions to the application of the merchandise percentages. Similarly through percentages are in effect between points in Western Trunk line territory east of the Missouri river and Western Trunk line territory west of the Missouri river, and practically all traffic divides on merchandise percentages with comparatively few exceptions. Similarly merchandise percentages are applied on practically all traffic moving between points in Western Trunk line territory and the entire Pacific Coast and intermountain territory with but few exceptions. There are a number of commodity rates in effect between points in Western Trunk line territory and the Pacific Coast and inter-mountain territory that bear no fixed relation to class [fol. 1545] rates, and this is also true of Western Trunk line territory west of the Missouri river. We have the same situation on traffic moving between points in Western Trunk line territory and Oklahoma via Kansas City, also Texas traffic via either Mississippi or Missouri river crossings, although on Oklahoma and Texas traffic there are possibly more exceptions to the application of the merchandise percents than to and from Western Trunk line territory west of the Missouri river and Pacific Coast points and inter-mountain territory. Because there are so many exceptions on Oklahoma and Texas traffic is the reason why the Southwestern lines have objected to the continuance of so many specific divisions on commodities to and from the Southwest. One of the reasons why there are so many specific divisions between points within Western Trunk line territory and Arkansas points, is due to the lack of through percentage arrangements on all traffic. Practically all

traffic moving between Arkansas points and points within Western Trunk line territory via St. Louis, Mo.-East. St. Louis., Ill., or Cairo-Thebes divides on specifics, and there are so many commodity rates in effect on which the Northern lines receive their class specifics, although the commodity rates are considerably lower than the through class rates, that the necessity for a percentage arrangement applicable on all traffic is apparent. The Western Trunk lines are well aware that I have repeatedly stated it was my desire to substitute through percentage arrangements for the present specific divisions, and that the percentages arrangement should include all points within Western Trunk line territory. The principle seemed to appeal to the Western Trunk lines (6126-6129).

On page 5771 of the transcript in connection with Mr. Wescoat's exhibit No. A-252, Mr. Wescoat points out that the percentage relationship of proportion of Western Trunk lines has decreased 8.5 per cent with no change for Southwestern lines, which has reference to page 1 of his [fol. 1546] exhibit A-252 showing the proportions for Western Trunk lines and Southwestern lines on Chicago-Texas traffic via East St. Louis on December 1, 1892, as compared with present through rates. No statement was made to indicate why percentage relationship of the proportion of Western Trunk lines has decreased at the persent time as compared with December 1, 1892, with no change for Southwestern lines. The decrease shown by Mr. Wescoat for Western Trunk lines is wholly due to advances having been made in local rates between Chicago and East St. Louis that have not been reflected in the joint through rates. If they had been reflected the same percentage relationship would exist at present as in 1892. The local rates of Western Trunk lines between Chicago and East St. Louis were advanced in the 5 per cent case which advance was not reflected by corresponding increases in through rates between points in Western Trunk line territory and Texas. Additionally the local rates of Western Trunk lines between Chicago and East St. Louis under I. C. C. Ex Parte 74 were advanced 40 per cent, whereas, joint through rates between Chicago and Texas were advanced 35 per cent. Eliminating these two advances made within Western Trunk line territory that have not been reflected in the joint through

rates, the disparity in the relationship, pointed out by Mr. Wescoat on page 5771 of the transcript will disappear. To bear out my statement Mr. Wescoat points out on page 5771 of the transcript that—"there has been no material change in the ratio either north or south of Kansas City in this respect." This is due to the fact that local rates between Chicago, Ill., and Kansas City, Mo., have continued in effect for a number of years and were advanced under General Order No. 28, and I. C. C. Ex Parte 74, in the same percentages as joint through rates were advanced (6124-6131).

[fol. 1547] On sheet 1 on Mr. Wescoat's exhibit A-252, percentages are shown on each class and the average on the ten classes—the resulting specifics on each class and the average of ten classes north and south of East St. Louis between Chicago, Ill., and Texas common points. A survey of the divisions on each class worked out on that basis shows that on some of the classes, Western Trunk lines will be exceeding their full current local rates which reflect advances previously pointed out that have never been reflected in joint through rates; on the other hand, it shows Southwestern lines would be making substantial reductions in their divisions on each class as compared with their local rates from St. Louis. Chicago territory, on Texas traffic, extends to within a short distance of East St. Louis, and it certainly does not seem to be proper to use Chicago, Ill., as basing point to establish divisions for Western Trunk lines to apply to and from the entire Chicago Group as pointed out in my exhibit A-158.

On page 5778 of the transcript, Mr. Wescoat points out that on traffic from Chicago to Louisiana points, south of Shreveport, Monroe, Alexandria group, under the plan used by the Southwestern lines of applying Texas percents the revenue of the Western Trunk lines is considerably lower on Louisiana traffic than on Texas traffic. As pointed out in my testimony, the rates between Chicago and Louisiana points were originally the same as to Texas common points. I pointed out that Chicago & St. Louis Association of Traffic Division Sheet No. 99, effective May 25, 1895, provided that Western Trunk lines between Chicago and East St. Louis would receive Texas common point per cents. That division sheet is an issue of the Western Trunk lines. There

have been many readjustments in rates between St. Louis-East St. Louis and Louisiana points prior to and following Federal control. I refer particularly to the 9702 scale. [fol. 1548] Rates between St. Louis, Mo.,.and other Mississippi river crossings and Arkansas and Louisiana points under that scale have been based on distance. It is on that account that the Texas per cents apparently should no longer be applied nor apparently should the Western Trunk lines receive Texas common point revenue because the rates to Louisiana points no longer bear any relations to Texas common point rates. However, they are related to the rates as fixed in the 9702 scale to Arkansas points. On that account in my testimony it was suggested the Western Trunk lines ought to receive the same specifics as proposed for Arkansas traffic as a divisional factor in fixing through per cents (6131-6133).

On sheets 1 and 2 of Mr. Wescoat's exhibit A-253, divisions have been shown north and south of East St. Louis from Chicago, Ill., to Randolph, Natchitoches, Opelousas and Bunkie, La., via East St. Louis, Ill., based on a mileage prorate. The proportion for the Western Trunk lines on that basis on each of the ten classes would exceed the full current local rates between Chicago and East St. Louis as shown on that exhibit. That would be the result at Randolph, La., and on seven of the ten classes, to Natchitoches, Opelousas and Bunkie, La. I am speaking only of Chicago, Ill., as that is the only point in Western Trunk line territory used by Mr. Wescoat in his exhibit. From other Illinois points in Western Trunk line territory, eighteen of which have been shown in my exhibit A-168, sheet 5, the local rates of the Western Trunk lines are lower than between Chicago and East St. Louis in most cases from 15 of the 18 points shown in my exhibit, so that from other points in [fol. 1549] Illinois in Western Trunk line territory, by using Chicago as basing point, the proportions of the Western Trunk lines will generally exceed their local rates on basis of mileage prorate using Chicago as the basing point. On sheet 3 of Mr. Wescoat's exhibit No. A-253, per cents and resulting divisions in cents per 100 pounds are shown on each of the ten class rates between Chicago and Shreveport via East St. Louis (6133-6134).

That exhibit shows that on seven of the ten classes on present basis of divisions Western Trunk lines would receive in excess of their local rates, and are receiving their full current local rates by reason of provision in division sheet omitting lines north and south of East St. Louis to their local rates as maximum. That exhibit also shows Southwestern lines on present basis of divisions receive on all classes considerably less than the local between East St. Louis, Ill., and Shreveport, La. Mr. Westcoat shows percentages between Chicago, Ill., proper and Shreveport, La., only, whereas the same per cents are also applied to and from all points in Western Trunk line territory taking the same joint through rates as Chicago, and because Chicago territory extends to within a short distance of East St. Louis on the present basis of divisions, using Peoria, as example, and a number of other important points, Western Trunk lines in all cases are receiving their full local rates, and Southwestern lines always receive less than their local rates. Sheet 5 of my exhibit A-168 shows the local rates between 18 Illinois points and East St. Louis. On mileage prorate basis shown on sheet 3 of Mr. Westcoat's exhibit A-253, the Western Trunk lines on seven of the ten classes would be [fol. 1550] receiving in excess of their local rates on Chicago-Shreveport traffic. The same sheet shows on the present basis of divisions Western Trunk lines are receiving 94.2 per cent of their local rates and Southwestern lines 81.6 per cent. This showing is based on the average of the ten classes. Mr. Westcoat also shows on this sheet, divisions between Chicago and Shreveport via East St. Louis on a rate prorate, using current rates as factors, the average of which would result in division of 25½ per cent to Western Trunk lines and 74½ per cent to Southwestern lines, whereas Western Trunk lines on present basis are receiving 30 per cent. This practically confirms the basis shown on sheet 7 of my exhibit A-168, wherein I showed an average proportion of 23.4 per cent to Western Trunk lines. The division of 30 per cent to Western Trunk lines applies between all points in Western Trunk line territory taking Chicago rates, and extends to within a short distance of East St. Louis. The division is applicable to and from other Louisiana common points, as pointed out by Mr. Westcoat on page 5778 of the transcript, viz: Shreveport, Pineville,

Monroe, West Monroe, Boyce, Alexandria and intermediate points, so that by taking the several Louisiana common points shown on page 7 of my exhibit A-168 into consideration, the Western Trunk lines would receive on a rate prorate approximately 23½ per cent as compared with 30 per cent they now receive. In working out a rate prorate Mr. Westcoat used as factors the full current local rates between Chicago and East St. Louis, which reflect an advance in the 5 per cent case not reflected in the joint through rates, and 40 per cent under I. C. C. Ex Parte 74 as compared with 35 per cent fixed by the I. C. C., notwithstanding which the rate prorate basis as shown by Mr. Westcoat allows Western Trunk lines 25½ per cent as compared with 30 per cent they currently receive, so that the rate prorate basis shown [fol. 1551] by Mr. Westcoat results in practically the same percentage for Western Trunk lines as proposed on my exhibit A-168, by use of rate prorates on average mileages.

On Mr. Westcoat's exhibit A-254, page 2, divisions are shown as currently in effect between Chicago, Ill., and Shreveport, La., via Cairo, Gale or Thebes, Ill. It will be noted that the division of 40 per cent would result in the Western Trunk lines receiving on all of the ten classes in excess of their local rates by a straight application of the per cents, but because the division sheets carry provisions limiting lines north and south to local rates as maximum, Western Trunk lines on all classes receive their full current local rates and Southwestern lines receive 75 per cent of their local rates. Percentages are also shown on Sheet 2 of that exhibit based on a mileage prorate without limiting lines north or south to local rates as maximum, and it results in a percentage for the Western Trunk lines higher than the present division of 40 per cent so that Western Trunk lines would in all cases exceed their local rates considerably, and Southwestern lines would receive about 60 per cent of their local rates. The same condition would exist at other Louisiana common points taking the 40 per cent division. All that Mr. Wescoat shows as to Shreveport, La., divisions confirms what I said as shown on page 5313 of the transcript (6134-6137).

On Mr. Wescoat's exhibit A-254, divisions are also shown between Chicago, Ill., and Randolph, Natchitoches, Opelousas, and Bunkie, La., via Cairo, Gale, or Thebes, Ill., on a

mileage prorate. With the exception of two classes to Opelousas, on that basis, Western Trunk lines in all instances would be receiving greatly in excess of their full local rates and Southwestern lines would receive less than their full current local rates. For example, at Randolph, [fol. 1552] the Western Trunk lines would be receiving 35 per cent in excess of their full current local rates based on the average division of the ten classes, and Southwestern lines would be receiving 38 per cent less than their locals. Similar comparison prevails at other points named. That shows conclusively what the result would be by the use of a "wheelage" prorate. I use the term "wheelage" because a mileage prorate reflects no considerations other than wheelage.

Mr. Wescoat's exhibit A-255 shows divisions between Milwaukee, Wis., and certain points in Louisiana via East St. Louis. Sheet 3 of that exhibit shows that currently, the Western Trunk lines are receiving on seven of the ten classes their full current local rates and that on the average Western Trunk lines are receiving currently 97.2 per cent of the local rates and Southwestern lines 78.2 per cent of their local rates. I do not know what basis of divisions was used in the preparation of that sheet, but the proportions north and south of East St. Louis as shown thereon are incorrect. The basis in effect as published in current division sheets, placed in this record, allow Western Trunk lines 30 per cent of the through rates, plus the original Milwaukee spread over Chicago territory rates, beginning with nine cents on first class. The divisions shown by Mr. Wescoat result on seven of the ten classes in the Western Trunk lines receiving in excess of their local rates and on that account the local rates have been shown as their division. Sheet 3 of my exhibit A-171 also shows on basis of the actual divisions in effect, the Western Trunk lines are receiving their full current local rate on seven of the ten classes on mileage prorate. Basis shown by Mr. Westcoat, the Western Trunk lines on all of the ten classes would receive in excess of their full current local rate and Southwestern lines would receive considerably less than their [fol. 1553] full current rates (6137-6138).

There is also shown on Mr. Wescoat's exhibit A-255, divisions between Milwaukee, Wis., and Randolph, Natchi-

toches, Opelousas and Bunkie, La., via East St. Louis, indicating what the percentages and divisions in cents per 100 pounds on each class, and the average of the ten classes will yield to the Western Trunk lines and to the Southwestern lines based on a mileage prorate. It shows that at Randolph, La., on each of the 10 classes, the Western Trunk lines would receive considerable in excess of their full current local rates, and on the average to the extent of 23.7 per cent in excess of their locals, and that the Southwestern lines would be receiving 33.8 per cent less than their locals, the latter also based on the average. A somewhat similar situation exists at the other three points named, except that the Western Trunk lines would receive on 7 of the 10 classes considerably in excess of the full current local rates, and the Southwestern lines would receive considerably less than their local rates in all cases, and that the shrink by the Southwestern lines below their local rates would exceed the amounts that the Western Trunk lines would receive in excess of their local rates. Another feature is that the local rates between Milwaukee and East St. Louis currently in effect reflect the advances made in the 5 per cent case, which was not at any time reflected in the joint through rates, and the local rates of the Western Trunk lines also reflect a 40 per cent advance under I. C. C. Ex Parte 74, whereas the through rates under the same order reflected an advance of 35 per cent, so that if the 5 per cent advance was not taken into consideration, and additionally [fol. 1554] a 35 per cent advance was applied under I. C. C. Ex Parte 74 to the local rates between Milwaukee and East St. Louis, the divisions of the Western Trunk lines based on mileage as compared with the local rates on that basis would show a greater spread in excess of the locals to the Western Trunk lines than shown on Mr. Wescoat's exhibit A-255, so that based on mileage, which takes into consideration only wheelage and nothing else, as reflected by that exhibit, the Western Trunk lines in all cases would be receiving in excess of their present locals on practically all classes, and the Southwestern lines would be receiving considerably less than their local rates on all classes without exception. The percentage relationship shown on that exhibit of the divisions currently in effect to the local rates of the Western

Trunk lines is not proper because as just pointed out, the local rates of the Western Trunk lines reflect several increases not reflected in the joint through rates. On page 5782 of the transcript, Mr. Wescoat stated that in my exhibit A-175, I attempted to show the proportions allowed the lines north and west of St. Louis is a shrink in the Southwestern lines proportion, and that this was hardly fair to the Northern lines as they could not be expected to handle the traffic for nothing. Naturally on account of the St. Louis rates being applied from St. Louis territory in Missouri, whatever division is allowed the Western Trunk lines west of St. Louis, Mo., must be assumed by the Southwestern lines. I did not indicate in my testimony Southwestern lines expected the Western Trunk lines to handle traffic for nothing. This is indicated quite clearly on pages 5343, 5344, 5345, and 5346 of the transcript. I did, however, propose a different basis for the Western Trunk lines than now in effect, and I pointed out there was necessity for broadening out the divisions because the divisions between points in St. Louis territory and points in Louisiana were [fol. 1555] now in effect apply only from and to a very limited number of points within St. Louis territory, and that the divisions should be broadened out to include all points in St. Louis territory in connection with which I proposed the same basis for the Western Trunk lines as proposed on Arkansas traffic because the through rates to Louisiana points as compared with Arkansas points reflected the spread in their service, and that the service of the Western Trunk lines between points in St. Louis territory and St. Louis, Mo., was the same on Louisiana traffic as on Arkansas traffic (6137-6141).

Sheet 1 of Mr. Wescoat's exhibit A-256 on Monroe, La., traffic, reproduces the same divisions as shown in my exhibit A-175 in addition to which it shows that the Western Trunk lines currently are receiving 79.5 per cent of their local rates, and the Southwestern lines 74.2 per cent of their local rates based on the average of the 10 classes. On Alexandria and Shreveport traffic the divisions as shown by Mr. Wescoat on the same exhibit are a reproduction of the divisions shown on my exhibit A-175 in addition to which Mr. Wescoat shows that the Western Trunk lines

are receiving 84.6 per cent of their local rates based on the current divisions, and Southwestern lines 74.1 per cent. On sheet 2 of Mr. Wescoat's exhibit A-256, the divisions as currently in effect are the same as shown in my exhibit A-175, and in addition, Mr. Wescoat has shown that the current divisions as received by the Western Trunk lines are 55.9 per cent of their local rates, and the divisions of the Southwestern lines are 83.4 per cent of their local rates. I speak of Lake Charles, La., St. Louis territory extends from St. Louis to practically Kansas City, Mo. The short line distance St. Louis to Kansas City is 279 miles. The average mileage would be 140 miles. The distance, St. Louis to Lake Charles, is 700 miles, and if handled via the [fol. 1556] Missouri Pacific over our east side lines, which is the route the traffic would naturally move, the distance is slightly in excess of 700 miles, however, using the latter distance on a mileage prorate, and the average distance 140 miles for the Western Trunk lines, the divisions to the Western Trunk lines would be 16.7 per cent, and applying that percentage to the average rates from St. Louis territory to Lake Charles shown in Mr. Wescoat's exhibit of $1.136 would result in an average division of 19 cents per 100 pounds. The average divisions on the current basis of divisions is 18.9 cents shown by Mr. Wescoat so that the divisions received by the Western Trunk lines currently reflect approximately a mileage prorate if St. Louis territory is to be taken as a whole, and the average mileage applied. At Lafayette and Donaldsonville, La., which points reflect a still greater haul for the Southwestern lines, on the basis of mileage the Western Trunk lines would receive less than at Lake Charles, although under the current basis of divisions they are receiving approximately the same revenue as Mr. Wescoat's exhibit indicates (6141-6143).

Mr. Wescoat's exhibit A-260, shows divisions on agricultural implements, Chicago, Ill., to Dallas, Houston and Fort Worth, Texas, via East St. Louis. It shows that the Western Trunk lines currently on Dallas and Fort Worth traffic are receiving their full current local rates, and that the Southwestern lines are receiving 95.9 per cent of their local rates. On Houston it shows that the Western Trunk lines are receiving 2.6 cents per 100 pounds less than their

local rates, and the Southwestern lines are receiving 8.9 cents less than their current local rates, and reduced to per-
[fol. 1557] centages the Western Trunk lines are receiving 89.8 per cent of their local, and the Southwestern lines 91.1 per cent of their local. The percentage relationship to the local rates shows very little disparity, but the actual divisions in cents per 100 pounds below the local rates shows a considerable disparity indicating that percentage relationships are misleading when not applied to the actual divisions in cents per 100 pounds. It also shows that on a rate prorate to Houston, the Western Trunk lines would receive within eight-tenths of 1 cent per 100 pounds less than their local rate, and the Southwestern lines would receive 3.2 cents less than their local rate. At Houston it shows the Western Trunk lines would receive 2.4 cents less than their local, and the Southwestern lines 9.1 cents less than their local. On the mileage prorate basis shown on that exhibit, it indicates that the Western Trunk lines to Dallas would receive 46.3 per cent in excess of their local rate, 38 per cent in excess of their local rate at Fort Worth, and 14.5 per cent in excess of their local rate to Houston, whereas the Southwestern lines would receive 85.4 per cent, 87.3 per cent and 84.9 per cent of their local rates respectively. This indicates clearly what mileage prorates reflect (6143-6144).

Mr. Wescoat's exhibit A-261, covers divisions on Iron and Steel Articles Chicago, Ill., to Dallas, Houston, and Fort Worth, Texas. It shows that via East St. Louis the Western Trunk lines on the present basis of divisions are receiving 16.8 cents per 100 pounds as compared with the local rate of 17.5 cents, or seven-tenths of 1 cent less than their local rate, and that the Southwestern lines are receiving 67.2 cents per 100 pounds on the current basis of divi-
[fol. 1558] sions as compared with the local rate of 73 cents, or 5.8 cents per 100 pounds less than their local rate. Reduced to percentages it shows the Western Trunk lines are receiving 96 per cent of the local rate, and the Southwestern lines 92.1 per cent of their local rates. On the rate prorate basis it shows the Western Trunk lines would receive 16.2 cents per 100 pounds to the three destinations named as compared with their present division of 16.8 cents, in other words, a rate prorate basis would allow the

Western Trunk lines less revenue than they now receive. On the mileage prorate basis shown on that exhibit, the Western Trunk lines would receive in excess of the local rates to the extent of 38.3 per cent, 22.2 per cent and 41.7 per cent respectively, and that the Southwestern lines would receive 81.9 per cent, 85.8 per cent and 81.1 per cent of their local rates (6144-6145).

Mr. Wescoat's exhibit A-262 shows divisions on Molasses from New Iberia, La., to Chicago, Ill., and Clinton, Iowa, via East St. Louis. It shows the divisions north and south of East St. Louis as currently in effect on the basis of Texas percentages compared with rate prorates and mileage prorates. The rates on molasses from New Iberia are the same as the rates on molasses from New Orleans, and heretofore the Western Trunk lines have always demanded and taken New Orleans divisions. The New Orleans percentages, to Chicago via East St. Louis for the Western Trunk lines are 33 per cent, first deducting river transfer of 3 cents. This allows the Western Trunk lines 13.2 cents per 100 pounds, and the Southwestern lines 29.8 cents per 100 pounds as compared with the local rate of the Western Trunk lines of 16 cents, and the local rate of the Southwestern lines of 38 cents, which indicates that the Western Trunk lines are exacting a division of 2.8 cents per 100 pounds less than their local, and the Southwestern lines [fol. 1559] are receiving 8.2 cents per 100 pounds less than their local. Even on the basis of a mileage prorate, the Western Trunk lines would receive less as shown by Mr. Wescoat in his exhibit referred to. To Clinton, Iowa, from East St. Louis, Mr. Wescoat has shown the divisions based on Texas percentages, whereas the Western Trunk lines are not applying Texas percentages but are applying New Orleans percentages or 40 per cent to the Western Trunk lines. This results in the Western Trunk lines receiving 17.2 cents, and the Southwestern lines 25.8 cents. In other words, the Western Trunk lines are receiving 10.3 cents per 100 pounds less than their class rate from East St. Louis to Clinton, Iowa, Southwestern lines are receiving 12.2 cents less than their commodity rate to East St. Louis, and 79.7 cents per 100 pounds less than their 5th class rate to East St. Louis. It also shows that on a rate prorate, the Western Trunk lines would be receiving considerably more

than on an actual mileage prorate, and that an actual mileage prorate would allow the Western Trunk lines considerably less than they are now demanding on the basis of the New Orleans percentages as pointed out above (6145-6147).

Mr. Wescoat's exhibit A-263, shows divisions on Oyster Shells from Berwick, La., to St. Paul, Minn., and from New Orleans to the same destination via East St. Louis. It indicates that the Western Trunk lines are receiving 10.6 cents per 100 pounds from Berwick, La., and 20.6 cents from New Orleans. The rates on Oyster Shells from Berwick, La., are the same as from New Orleans. The exhibit shows that. The Western Trunk lines, with the exception of one, in the past have always demanded New Orleans percentages on traffic from interior Louisiana points from which the same rates are published on commodities as from New Orleans. On that basis from New Orleans the West-[fol. 1560] ern Trunk lines are receiving 4.4 cents less than their class rate from East St. Louis, and the Southwestern lines are receiving 3.6 cents less than their commodity rate to East St. Louis, and 31.3 cents per 100 pounds less than their Class "E" rate to East St. Louis. This would be the relationship from Berwick based on the settlements that have been made for a number of years by the Western Trunk lines. On a rate prorate from Berwick, the Western Trunk lines would receive 18.4 cents or less than they are taking at the present time, and on a mileage prorate from Berwick the Western Trunk lines would receive 18.5 cents, which is also less than the divisions they have demanded and taken. The percentage relationship of mileage prorate to local rates shown on Mr. Wescoat's exhibit compares the divisions based on a mileage prorate to the class rate from East St. Louis to St. Paul for the Western Trunk lines, and to the commodity rate for the Southwestern lines. That does not seem to be a fair relationship. On the same exhibit, Mr. Wescoat also shows divisions on Oyster Shells from Berwick, La., to Muscatine, Iowa, via East St. Louis on the basis of Texas percentages. The local rate from East St. Louis, Ill., to Muscatine, Iowa, of 16 cents shown on that exhibit is the class rate, and the local rate from Berwick, La., to East St. Louis, Ill., of 33.5 cents is the commodity rate. That exhibit indicates the Western Trunk lines on the basis of divisions shown on that exhibit are re-

ceiving 8.9 cents less than their class rate from East St. Louis to Muscatine, Iowa, that the Southwestern lines are receiving 2.1 cents less than their commodity rate to East St. Louis, but it does not show that the Southwestern lines are receiving 22.1 cents less than their Class E rate to East St. Louis. In other words, comparison of the divisions to the class rates for the Western Trunk lines and to the commodity rates for the Southwestern lines is not a fair com- [fol. 1561] parison. There is no movement of oyster shells from East St. Louis, but there is a movement of oyster shells from Berwick, La., and a substantial one, which is the reason why commodity rates were necessary from that point, and why no commodity rates are necessary from East St. Louis. Divisions are also shown on that exhibit, and the result based on a rate prorate, using as factors the class rate for the Western Trunk lines and the commodity rate for the Southwestern lines. It will be noted that even on a mileage prorate as shown on that exhibit, the Western Trunk lines would receive less revenue than on a rate prorate, indicating that rate prorates can hardly be defended unless like factors were used. Similarly, the percentage relationship of a mileage prorate to local rates shown on Mr. Wescoat's exhibit A-263 does not seem to be logical for the reason that the percentage relationship of the divisions for the Western Trunk lines is compared with the class rate, whereas the relationship for the Southwestern lines is compared with the commodity rate. If the relationship for the Southwestern lines was compared with our class rate, it would show 53.1 per cent instead of 84.8 per cent shown by Mr. Wescoat (6147-6149).

On page 5789 of the transcript, Mr. Wescoat speaking of the application of Texas per cents on oyster shells from Berwick, La., stated—"However, this basis is used for the reason that the Southwestern lines will not agree to any other basis." It is true that the Southwestern lines maintain Texas percentages should be applied in the division of rates to and from interior Louisiana points south of the Shreveport-Monroe-Alexandria Group, because that was the original arrangement, and was published by the Western Trunk lines in their individual division sheet as pointed out in my testimony on pages 5298 and 5299 of the transcript. Regardless of that on northbound commodities

[fol. 1562] from interior Louisiana points from which the same rates are in effect as from New Orleans, the Western Trunk lines have and are dividing such through rates by the use of the New Orleans percentages, and not Texas percentages. The settlements are in their hands. I pointed this out on page 5351 of the transcript in connection with divisions on sugar and other commodities, and quoted from decision of the I. C. C. in Docket No. 11893 in which the Commission condemned the principle of the Western Trunk lines applying New Orleans percentages for their account on sugar from interior Louisiana points taking the same rate basis as New Orleans. On page 5789 of the transcript Mr. Wescoat also refers to the divisions on oyster shells from interior Louisiana points to C. F. A. points, pointing out that the Southwestern lines petitioned the C. F. A. lines to publish through rates and agreed to accept a fixed proportion to East St. Louis of 20.5 cents, which is less than the Southwestern lines are receiving on traffic to Western Trunk lines points. It is true that the Southwestern lines requested the concurrence of the C. F. A. lines for the establishment of a through commodity rate on Oyster Shells from Berwick, Houma and Morgan City, La., and the C. F. A. lines agreed to the publication of the through rates proposed by the Southwestern lines which are the New Orleans rates. There was no movement of oyster shells to C. F. A. points, and the industries at the three shipping points indicated desired to extend the territory because C. F. A. territory, in their opinion, would, in the future, be a large consumer, but the traffic could not move on the present combination of local rates to St. Louis and the class rates beyond. The Southwestern lines were anxious to have the rates established at the earliest possible date, and proposed a basis of divisions entirely different from that accepted, but rather than delay the [fol. 1563] publication of the rates, agreed to accept 20.5 cents, which was as a matter of fact the proposal made by the C. F. A. lines and not the Southwestern lines, however, the divisions between the Southwestern lines and the C. F. A. lines are not involved in this proceeding, and what the Southwestern lines accept on C. F. A. traffic has no bearing on the situation any more than if I attempted to point out what the Western Trunk lines were accepting on

Transcontinental traffic for comparative purpose, or any other territory (6149-6152).

On Mr. Gillette's exhibit A-265 on cheese, it shows the local class rate, Green Bay, Wis., to East St. Louis, Ill., at 64 cents and that the divisions received by the Western Trunk lines are 54.7 per cent of their class local. On the other hand, that exhibit shows the local commodity rate, East St. Louis, Ill., to Texas common points $1.26, and the division received by the Southwestern lines is 95.2 per cent of their commodity local. The comparison shown is of the local cheese rate of the Western Trunk lines and the commodity rate of the Southwestern lines. The 3rd class rate, East St. Louis to Texas common points, is $1.58, and the division received by the Southwestern lines is 76 per cent of the local rate. This comparison is made on the divisions shown by Mr. Gillette in that exhibit, and is based on allowing the Southwestern lines south of East St. Louis, Ill., 68 per cent of the 3rd class rate from Milwaukee, Wis., to Texas common points, $1.765 as against a through commodity rate of $1.55 from the cheese shipping points located in the Wisconsin group.

The Western Trunk lines have never called that situation to the attention of the Southwestern lines except in this proceeding. I might say, however, for the benefit of this record, that the Southwestern lines voluntarily docketed this subject with the Southwestern Freight Bu- [fol. 1564] reau some time ago for consideration of the Southwestern lines, and with a view of discussing and arranging divisions on this particular traffic with the Western Trunk lines. No proposal has yet been made, due to lack of time, principally, on account of this proceeding.

The Southwestern lines fully recognize that where situations exist as pointed out by Mr. Gillette, on cheese, that some modification in the basis is necessary. Naturally, in the meantime, and until the present basis is modified, the accounting departments will continue to apply the division sheets as they read, and cannot do otherwise (6152-6153).

On page 5808 of the transcript Mr. Gillette points out the divisions fixed 35 or 40 years ago accords Southwestern lines south of Missouri river and St. Louis, Milwaukee revenue from the so-called Fox river territory, and on page

5811 of the transcript Mr. Gillette expresses the opinion that this is simply a trick division basis. If it is a trick division basis, the Western Trunk lines have tricked themselves, because the divisions are and have been published by the Western Trunk lines, as well as the Southwestern lines. I refer to Chicago & St. Louis Traffic Association Division Sheet No. 107 which published the same basis as shown in Southwestern lines Division Sheet No. 40 mentioned by Mr. Gillette on page 5814 of the transcript.

The Western Trunk lines maintain there is no commodity rate on cheese from Milwaukee, Wis., and because Southwestern lines receive Milwaukee revenue, and that class rates are in effect from Milwaukee territory which are higher than the commodity rates on cheese from Wisconsin [fol. 1565] cheese producing points, that the basis for the divisions is wrong. The situation can be remedied if the Western Trunk lines arrange for publication of a commodity rate from Milwaukee, Wis., and as pointed out by Mr. Grace, the Chicago commodity rate would be published from Milwaukee, Wis., if requested. The Chicago commodity rate is $1.37 per 100 pounds, and if that rate was published from Milwaukee, Wis., Southwestern lines would receive a division of $1.37. The spread, Green Bay and other Wisconsin cheese shipping points located in the Wisconsin group, over the Milwaukee commodity rate, in that event, would be 18 cents per 100 pounds, and the complaint made by Mr. Gillette would be remedied. The remedy seems to lie in the hands of the Western Trunk lines, but apparently they have not taken advantage of the situation (6153-6154).

On page 5814 of the transcript, Mr. Gillette states, "as the absolute minimum, the Northern lines should not receive less than the Milwaukee division of the rate on which the business is moving." If the Western Trunk lines proceed to establish the Chicago commodity rate from Milwaukee, Wis., as pointed out above, the result will be that the Western Trunk lines would receive a spread of 18 cents per 100 pounds, and they would receive more revenue than suggested by Mr. Gillette. When the basis of divisions was originally established between Milwaukee, Wis., and group and Texas points via Missouri and Mississippi river crossings, the through rates to and from Milwaukee, as pointed

out by Mr. Dana and myself, were based on fixed differentials over Chicago, and Fox river territory similarly. Later the Milwaukee differentials were wiped out entirely and the Chicago differentials were made to apply to and from Milwaukee territory, which made a corresponding reduction in the rates to and from Fox river territory. The basis of [fol. 1566] divisions to and from Milwaukee and Fox river territory when originally arranged was apparently sound, and would have continued so had not the Western Trunk lines discontinued the original Milwaukee spread over Chicago. The divisions as now in effect are merely what they were originally, and it cannot be said that they are trick divisions. The situation on traffic to and from Fox river territory complained of in many respects is similar with that which exists in Texas differential territory. From time to time the Southwestern lines have been obliged to extend the Texas common point rates to certain points formerly located in differential territory. Frequently, the differentials to and from differential territory in Texas have been reduced, and only quite recently the differentials have been reduced substantially on traffic to and from points on the St. L. B. & M. Ry. The Southwestern lines have assumed all of the shrink in such cases, and have not complained to the Western Trunk lines (6154-6156).

We have a situation at Texas border points applicable on Mexican traffic to and from which frequently the rates are no higher than to and from Texas common points, and sometimes the rates are lower, although the traffic passes through differential territory. In such cases the Southwestern lines are performing additional service as compared with the service to and from Texas common points that is considerably greater than the additional service performed by the Western Trunk lines; Fox river territory as compared with Milwaukee, but here again no complaint has been made by the Southwestern lines, so that the situation is not onesided as depicted by Mr. Gillette.

On page 5816 of the transcript Mr. Gillette, in connection with his exhibit A-266, points out that divisions on Okla- [fol. 1567] homa and Arkansas traffic provide that lines south of St. Louis and Missouri river gateways receive their established percentage of the Chicago rates. As to Oklahoma traffic via the St. Louis gateway, the divisions are pub-

lished in Illinois Freight Committee Division Sheet 3-C, and do not apply to or from points on the C. & N. W., C. M. & St. P., and Soo lines, special provision being published in that division sheet for account of those lines to that effect, so that so far as points on the three lines named are concerned, there are no divisions via the St. Louis gateway to and from Oklahoma, therefore, Mr. Gillette's statement is incorrect. As to Arkansas, the lines south of St. Louis do not receive Chicago revenue as stated by Mr. Gillette, except to a few points located on the Oklahoma-Arkansas border. Southwestern lines receive Milwaukee revenue except to Oklahoma-Arkansas border points, and on that basis the Western Trunk lines are accorded fixed arbitraries over Chicago that do not exist in the through rates, because the Chicago rates are applicable to and from Milwaukee group, although the Southwestern lines have continued to allow the Western Trunk lines the original spread in the rates advanced and reduced in accordance with the several general advances and the one general reduction. There are no divisions whatsoever between points in Western Trunk line territory east of the Mississippi river and Arkansas points on the Missouri Pacific and St. Louis Southwestern Railroads via Kansas City, Mo., and I have been advised by the Kansas City Southern that they operate no divisions except to points on the western border of Arkansas, such as Fort Smith, Van Buren, etc. (6156-6157).

It is very improbable that divisions will ever be arranged between Western Trunk line territory east of the Mississippi river and Arkansas as a whole via Kansas City, Mo., [fol. 1568] because there is no necessity therefor. There have been only occasional movements via that gateway. This because the route is circuitous as compared with St. Louis, and so much so that, regardless of no restrictive applications being published in the tariffs, the traffic has continued to move through the St. Louis gateway.

On page 5 of Mr. Gillette's exhibit A-267 divisions are shown on peaches from Texas common points to Green Bay, Wis., and the percentage relationship that the divisions bear to the local rates of the Western Trunk lines and the Southwestern lines. Mr. Gillette shows the local class rate St. Louis to Green Bay to be 45.5 cents, and that on the present basis of divisions the Western Trunk lines receive 73.4 per

cent of the class local, and the Southwestern lines 97.5 per cent of their commodity local. I check the class rate St. Louis to Green Bay as 64 cents, that being the 3rd class rate published in the same tariff quoted by Mr. Gillette. Therefore the percentage relationship of the revenue of the Western Trunk lines to the third class rate would be a little over 50 per cent. On the other hand, the revenue of the Southwestern lines as compared with their third class rate is about 50 per cent so that the relationship that the divisions bear to the class rates is about the same. I do not think it proper to compare relationships to class rate for the Western Trunk lines, and to commodity rates for the Southwestern lines (6157-6158).

The class rate from St. Louis shown on Mr. Gillette's exhibit is a paper rate. It moves no traffic. As an illustration, commodity rates are published from the peach producing districts in southern Illinois to Green Bay, Wis., of 58.5 cents in Western Trunk line tariff No. 6-0, I. C. C. No. A-1647, Item No. 2660. I refer to Anna and Cobden, Ill. [fol. 1569] The distance from Anna and Cobden, Ill., to Green Bay, Wis., is greater than from East St. Louis, although commodity rates from those two points are lower than the class rate from East St. Louis. That apparently indicates the East St. Louis class rate is a paper rate in so far as peaches are concerned.

Mr. Behrle's exhibit A-275 shows the amount of switching absorbed by East St. Louis-Chicago lines on traffic handled during the month of June, 1924, viz., the C. & A., C. & E. I., I. C., and Wabash Railroads, amounting to $15,189.93. A check of Illinois Freight Association Tariff Bureau Tariff No. 22-R, I. C. C. No. 55, shows the following number of industries located within the Chicago switching district on those lines:

On the C. & A. Railroad	76
On the C. & E. I. Railroad	24
On the I. C. Railroad	205
On the Wabash	28
Total	333

and that the total number of industries located on all Western Trunk lines combined parties to this proceeding, in the

Chicago switching district is 1,983, so that there are 333 industries located on the four lines shown on Mr. Behrle's exhibit A-275, and 1,650 industries served by other Western Trunk lines parties to this proceeding located in the Chicago switching district. In addition there are 1,891 industries located on exclusive switching lines listed in that tariff. There are 759 industries located on road haul carriers other than Western Trunk lines. I have selected the C. & A., C. & E. I., I. C. and Wabash Railroads because the switching absorptions shown on Mr. Behrle's exhibit A-275 reflect the amount of switching absorbed by those four lines.

This proceeding is between the Western Trunk lines as [fol. 1570] a whole and the Southwestern lines, so that of the total number of industries listed in that tariff, within the Chicago switching district of 4,633, 42.8 per cent are located upon the rails of Western Trunk Lines parties to this proceeding, and whatever switching charges are paid out by the C. & A., C. & E. I., I. C., and Wabash Railroads to other Western Trunk lines parties to this proceeding apparently should not have been included in this exhibit, because a large percentage of the switching charges as paid out by those four lines is paid to other Western Trunk lines that serve the industries, and does not affect the earnings of the Western Trunk lines as a whole (6159-6160).

40.8 per cent of the industries listed to that tariff are located on so-called exclusive switching lines, and the amount of absorptions paid to those switching lines, taking lumber as an illustration, does not approach the amount of divisional allowances made by the Southwestern lines to so-called tap lines, which divisions have been fixed by the Interstate Commerce Commission in I. & S. No. 11. 16.4 per cent of the industries in the Chicago switching district are located on road haul lines not a party to this proceeding.

I desire to mention for the record there is no intermediate switching at East St. Louis between the Missouri Pacific or St. Louis Southwestern Railroads and the Illinois Central Railroad, because there is a direct connection between these lines, therefore the intermediate charge of $4.95 on northbound and southbound business is not involved.

Bridge tolls absorbed by Southwestern lines have been shown by Mr. Behrle, but apparently on southbound car-

load traffic interchanged at East St. Louis, the intermediate switching charge absorbed by the Southwestern lines is not shown. This is an added expense to the Southwestern lines, [fol. 1571] the same as on northbound traffic for the Western Trunk lines, except in connection with the Illinois Central Railroad.

The Southwestern lines also have switching absorptions, but it would be an almost impossible task to go over the billing to cover traffic handled to and from all terminal points in the Southwest in order to make a similar comparison showing the amounts of absorptions that the Southwestern lines pay to each other (6161-6162).

Mr. Hoffelder's exhibit A-279, shows divisions on petroleum products via East St. Louis from one representative point in Arkansas, Louisiana and Texas on which appears the present divisions, and what the divisions would be by the use of a mileage prorate and a rate prorate, in the latter case using commodity locals as factors. The rate prorate basis as shown on that exhibit allows the Western Trunk lines only one-half cent per one hundred pounds less than an actual mileage prorate as shown on that exhibit on refined oil, and on crude oil and asphalt the rate prorate basis would allow the Western Trunk lines more than an actual mileage prorate as shown by that exhibit. The local rate of 17.5 cents, East St. Louis to Chicago, is applicable on refined and crude oil and asphalt, in short on all kinds of low grades of oil, whereas, the rates from El Dorado, Ark., and Shreveport, La., on crude oil are 6.5 cents per one hundred pounds less than on refined. I have developed that there is a very light movement of refined oil from East St. Louis to Chicago that moves on the 17.5 cent rate, but that there is no movement whatever of crude, fuel, road oil or asphalt, so that the commodity rate of 17.5 cents with exception of the light movement on refined oil is never used, and is a paper rate on low grade oils which is the bulk of [fol. 1572] the movement from the Arkansas and Louisana fields, so that it seems improper to use as factor for the Southwestern lines a commodity rate to East St. Louis that moves traffic in substantial volume and a rate from East St. Louis to Chicago that moves no traffic except a small movement of refined oil. As pointed out before, the rate prorate basis shown on that exhibit allows the Western Trunk lines greater revenue than an actual mileage prorate with ex-

ception of a slight difference on refined oil, which apparently indicates that the factor or the local rate north of East St. Louis is out of proportion, particularly on low grade oils. The distance El Dorado, Ark., to East St. Louis shown on that exhibit is 488 miles. The short single line distance is via the Missouri Pacific Railroad and is 500 miles, although a combination of two lines may produce 488 miles. As an illustration the 17.5 cent commodity rate on refined oil East St. Louis to Chicago is 63.6 per cent of the fifth class rate of 27.5 cents for the short single line distance of 279 miles, whereas, the refined oil rate of 29.5 cents, El Dorado, Ark., to East St. Louis, is 32.6 per cent of the fifth class rate of 90 cents for the short line single haul of 500 miles. On crude oil the commodity rate of 17.5 cents East St. Louis to Chicago is also 63.6 per cent of the fifth class rate of 27.5 cents for the short single line haul of 279 miles, and from El Dorado, Ark., to East St. Louis the commodity rate of 24 cents is only 26.5 per cent of the fifth class rate of 90 cents for the short single line haul of 500 miles. From Shreveport, La., the percentage relationship of the commodity rate from that point to East St. Louis of the fifth class rates are 30.3 per cent on refined and 24.6 per cent on crude oil for 560 miles. To further show that the rate prorate basis suggested by Mr. Hoffelder seemingly is improper, I wish to point out that taking the 17.5 cent rate [fol. 1573] which applies on crude oil, East St. Louis to Chicago, the earnings of the Western Trunk lines for 279 miles would be 12.5 mills per ton one mile, while on a local movement from El Dorado, Ark., to East St. Louis of 500 miles, the earnings of the Southwestern lines are 9.6 mills per ton one mile, whereas, the through rate, El Dorado to Chicago of 29.5 cents on crude oil based on 779 miles results in 7.6 mills per ton one mile for the through haul, origin to destination. That indicates that the rate of 17.5 cents, East St. Louis to Chicago, Ill., is inflated when compared with the rate, El Dorado, Ark., or Shreveport, La., to East St. Louis of 24 cents, also as compared with the through rate, El Dorado, Ark., or Shreveport, La., to Chicago of 29.5 cents, in fact as I pointed out the 17.5 cent rate moves no crude oil or any other low grade oils, so that it is a paper rate (6162-6164).

As I see it, there is less merit in the rate prorate basis or the mileage prorate basis shown in Mr. Hoffelder's ex-

hibit A-279 than in the basis proposed and as shown in my exhibit A-182. In that exhibit I have attempted to bring about uniform relationships. Further, I have shown in that exhibit the fifth class accepted arbitrary north of East St. Louis is 20.5 cents, and that the through commodity rate on refined oil, El Dorado, Ark., to Chicago is 35.6 per cent of the through fifth class rate, and applying that percentage to the fifth class division published in Illinois Freight Association Division Sheet No. 5, the Western Trunk lines north of East St. Louis would earn less than under propositions 1, 2 or 3 as shown on that exhibit. That is not a theory. If through percentages were in effect the same result would follow, and does follow on traffic moving between points where there are through percentages, for example, through percentages are in effect on Texas traffic that allow the Western Trunk lines between Chicago and [fol. 1574] East St. Louis, Ill., 20 per cent or 7.7 cents on refined oil, 6.4 cents on crude oil, and 6.5 cents on road oil, and if percentages other than 20 per cent were used, a similar result would follow. On my exhibit A-168, I have shown a division of 23.5 per cent based on a rate prorate using the average rates from 18 or 20 Illinois points, and by the use of the same Illinois points on a mileage prorate, the division for the Western Trunk Lines would be 23.9 per cent. Mr. Wescoat's exhibit A-253, shows for example, between Chicago, Ill., proper and Shreveport, La., on a rate prorate, based on the averages of the 10 classes a division for the Western Trunk Lines of 25.5 per cent, whereas, the present division is 30 per cent. I believe these illustrations demonstrate that the present division of 30 per cent for Western Trunk Lines is excessive.

No mention has been made by Mr. Hoffelder that Chicago is not the only point in Illinois to which there is a substantial movement of oil from the Arkansas and Louisiana fields, and that the present division of 30 per cent for Western Trunk Lines extends practically all over the state of Illinois. That is the reason why on my Exhibit A-168, I worked out an average rate prorate using 18 or 20 Illinois points having a population of 10,000 or more, and similarly a mileage prorate using the same points, which brought about a division of 23.4 per cent for the Western Trunk Lines on the rate prorate basis, and 23.9 per cent on the mileage prorate basis, and between Shreveport and Chi-

cago only, Mr. Wescoat in his exhibit A-253 shows that on the average of the 10 classes the division for Western Trunk Lines would be 25.5 per cent (6165-6166).

Mr. Hoffelder's exhibit A-278, shows there are no divisions on petroleum from El Dorado to Chicago via Kansas [fol. 1575] City. He did not say or show on his exhibit that the Western Trunk Lines are in actual practice exacting the same revenue on oil from El Dorado, Ark., District and from Shreveport as they currently receive from Tulsa, Oklahoma. In other words, as I pointed out in my testimony, the Western Trunk Lines are allowing the Southwestern Lines the same revenue for a haul of 653 miles from El Dorado and 560 miles from Shreveport to Kansas City as the Southwestern Lines receive for a haul of 257 miles from Tulsa, Okla., to Kansas City. On Shreveport, La., Mr. Hoffelder shows that the divisions are 40 per cent for the Western Trunk Lines north of Kansas City to Chicago, but he does not show on this exhibit, that in actual practice, as pointed out above, they are exacting the same revenue as on similar traffic from Tulsa, Okla. This is being done arbitrarily without notifying, advising, or asking the Southwestern Lines if it is satisfactory. Mr. Hoffelder shows that the divisions for the Western Trunk Lines on refined oil based on 40 per cent from Shreveport, La., are considerably less than the agreed division from Tulsa, Okla. Furthermore, as I pointed out, there is no reason why the Southwestern lines should be expected to accept a lower division for their greater service to Kansas City, Mo., as for their service to East St. Louis, and similarly from El Dorado, Ark., District. The through haul from the El Dorado, Ark., District via Kansas City to Chicago is very circuitous, but that does not change the through rates, so that the hauls of the Southwestern Lines are as much greater from the Arkansas-Louisiana fields of production to Kansas City over the hauls to East St. Louis as are the hauls of the Western Trunk Lines from Kansas City, Mo., to Chicago, Ill., as compared with East St. Louis to Chicago, so that being the case, it does not seem proper that one [fol. 1576] group of lines should receive greater revenue for the longer hauls and force the other group of lines to accept less for their longer hauls as for their short hauls, and there is no way of curing a situation of that kind where both groups of lines perform greater service via Kansas City as

via East St. Louis than to equalize the divisions via East St. Louis, whatever they may be. As a matter of fact, the Western Trunk Lines ought to receive greater revenue from Kansas City to Chicago than from East St. Louis to Chicago, and the Southwestern Lines ought to receive greater revenue from the Arkansas-Louisiana fields to Kansas City than to East St. Louis, but it cannot be done except at the expense of one or the other group of lines involved in the haul.

I want to again refer to the rate of 17.5 cents on low grade oils form East St. Louis to Chicago, shown on Mr. Hoffelder's exhibit A-278, as compared with the rates on low grade oils from Kansas City to Chicago, which are lower on crude oil than on refined oil which further goes to show that the theory of a rate prorate via East St. Louis using paper rates north of East St. Louis and going rates for Southwestern Lines is unfair to the Southwestern Lines.

I also desire to point out from Mr. Hoffelder's exhibit A-279 on petroleum from Wichita Falls, Texas, to Chicago, Ill., via East St. Louis, that a mileage prorate from that point would allow the Western Trunk Lines less revenue than they are at present receiving, and that the rate prorate basis using the rates from East St. Louis to Chicago that moves no crude oil results in divisions for the Western Trunk Lines considerably in excess of a mileage prorate.

Answering Mr. Towner's statement that in the course of my discussion of the oil rates I made the statement that the 17½ cent rate on oil from East St. Louis to Chicago was a paper rate, and that there was a very light movement of oil on it, and that it was apparently an inflated rate [fol. 1577] and answering his question whether I did not know that the Commission itself had approved that rate, my answer is that I did not. I found out that there was no movement of low grade, movement from East St. Louis whatever. I understand that rate applies on all grades of oil.

Answering Mr. Towner's question as to what rate the Roxana Company uses in putting all of its oil into Chicago, if it is not that 17½ cent rate, my answer is that that is refined oil. I do not think they have a very large plant there at East St. Louis; probably they have at Wood river. To be frank, I did not check up the rate from Wood river, al-

though probably the same rate is in effect from Wood river as from East St. Louis. If all of the Roxana traffic to Chicago moves on this 17½ cent rate, the way it would from Wood river, then as a matter of fact that rate would move a very considerable volume (6169-6170).

In connection with the absorption at Chicago on lumber, there is quite a large volume of it that is reconsigned in transit, so that as a matter of fact a majority of the shipments will get beyond East St. Louis before the carrier will know where it is to be delivered.

It is my idea that on this traffic to Chicago on which shipping absorptions were made, it should have moved by those Western Trunk Lines on which the deliveries were made in order to prevent the incurring of the absorption expense; I think it should have rightfully delivered to those lines, but when another carrier handles the traffic to an industry located on another road haul line, if they have to absorb that switching charge, I do not think they ought to complain. That is a competitive situation and the probabilities are that if we were to check, we could find a number of similar situations in the southwest (6170-6171).

[fol. 1578] Taking the four lines shown in Behrle's exhibit, those are the four lines between East St. Louis and Chicago. If they expect to participate in the traffic between those points, they have to make those absorptions. If traffic moves over the Western Trunk Lines upon which the deliveries were made, we would have roads like the Northwestern, the Milwaukee and the Burlington. The Burlington route from East St. Louis to Chicago is very circuitous, but it would not require a much longer haul than over the short line of the Milwaukee. The Milwaukee does not reach East St. Louis at all, and that would make a two line haul. It is not true that the carriers have very little to say about how this traffic is routed, there is considerable traffic that is routed by the carriers; we control a good percentage of it I presume; a lot of it is unrouted; a considerable percentage of this traffic is controlled by the Chicago & Eastern Illinois, the Chicago & Alton and the Wabash. I assume that there is a large part of it controlled by the carriers. In addition to that we have the right of the shipper to divert it in transit on any line regardless of the line that hauls it out of East St. Louis to Chicago. I do not think if you in-

vestigate it you will find very much traffic delivered to lines at East St. Louis consigned to some interior Illinois point and from there reconsigned to Chicago. I think you will find probably a large percentage of the traffic reaching Chicago and reconsigned from there.

Q. I agree with you on that. The traffic gets to Chicago. It is there reconsigned, from the rails of the carrier that brought it to Chicago, for delivery on another carrier in Chicago, or say reconsigned to another point.

A. Yes (6171-6173).

[fol. 1579] Redirect examination:

By Mr. Larrimore:

I do not know whether or not the people at Roxanna are building a refinery at Whiting, Indiana. I do not know that there is any movement of crude oil. If they are building a refinery at Whiting, I do not imagine that there would be any material movement from Wood river to Chicago (6173).

[fol. 1580] H. W. Press

The Witness: In referring to the station and yard expenses per ton of revenue freight handled, given on page 33 of my exhibit A-124, witness Parsons in his testimony at Chicago on May 6th, page 5652 of the record, took exception to the use of the tonnage figures on a system basis. He took the position that where certain auxiliary lines of a given system, for some reason or other, make separate returns to the Interstate Commerce Commission, the total number of tons handled should be ascertained on basis of aggregating the number of tons given for each of the lines for which separate returns are made.

I can see absolutely no merit to his contention. By ascertaining the tonnage of a given line, or system, on that basis, considerable duplication of tonnage is brought about, by reason of tonnage interchanged between the several lines of the system being counted two or more times, which is entirely wrong and for which there is no justification.

We have a peculiar situation in the Southwest in that under the laws of the state of Texas the carriers operating in that state are required to maintain separate corporate names and local organizations for lines within the state of Texas, although such lines may form only a part of the line, or an operating division, of a carrier having operations both within and without the state of Texas (6173-6174).

The keeping of separate accounts and the rendering of separate returns for such lines in Texas is merely a matter of bookkeeping and does not in any way alter the fact that those lines form only an operating division, or part of a system, operated and controlled by one management. The major lines in the southwest have operations within and without the state of Texas, such as the Santa Fe, which [fol. 1581] has the G. C. & S. F. Ry. in Texas; the Rock Island and the Rock Island of Texas; the M-K-T and M-K-T of Texas; the Cotton Belt and the Cotton Belt of Texas; the Frisco and Frisco of Texas; the Kansas City Southern, which has the Texarkana & Ft. Smith Railway in Texas.

The lines in Texas of these several carriers from the standpoint of the physical handling of traffic are operated like any other part of their system: The fact that they cross an imaginary line at the Red river does not require that tonnage handled across said line be counted twice, once north of the line and once south of the line. It would be entirely wrong to make two counts of such tonnage. We, of course, keep separate accounts for the operations north of the line and south of the line, but that, as I have already stated, is merely a matter of bookkeeping in compliance with the law and does not alter the situation from an operating standpoint or from the standpoint of volume of traffic or tonnage handled (6174-6175).

The situation I have described does not have an effect upon the cost that I have included in arriving at our yard expense; it would not have any more effect upon the cost than the fact you handle a ton of freight through a dozen or more freight terminals. I do not include our accounting as part of our total cost in including yard expense. This is just station and yard expense. There would be no more reason for counting twice any tonnage that might

cross the imaginary line referred to than there would be for counting the tonnage each time it crossed the boundary of a freight train division. The lines of the carriers which I mentioned do not end at the Red river, but go on through into Texas; cars and trains go right on through like on any other division.

[fol. 1582] Take for example a shipment over the Frisco from St. Louis to Fort Worth, Texas. That shipment would be handled over seven freight train divisions; St. Louis to Newburg, Missouri; Newburg to Springfield; Springfield to Monett, Missouri; Monett to Sapulpa, Oklahoma; Sapulpa to Francis, Oklahoma; Francis to Sherman, Texas; and Sherman to Fort Worth. The tonnage of that shipment would be counted only once, and would be so reported in our report to the stockholders. Mr. Parsons would have us report that tonnage twice, once north of Red river and once south of Red river, simply because the line of the St. Louis-San Francisco Railway from Red river to Ft. Worth is known as the St. Louis, San Francisco & Texas Railway. The St. Louis, San Francisco & Texas Railway is nothing but an operating division of the St. Louis-San Francisco Railway Company and the fact that the Texas laws require that we give the line in Texas a separate corporate name does not change the operating conditions nor the manner in which tonnage is counted. Our annual report to the stockholders is made in the name of the St. Louis-San Francisco Railway Company and includes all financial and operating results of the System, regardless of the fact that the system is comprised of several lines having separate corporate names. The tonnage reported therein is on the basis of a single count.

The example given and what I have just said with respect to the Frisco, applies in the same way to the other carriers mentioned above (6175-6177).

The tonnage figures used in the calculations on page 33 of exhibit A-124 are on a system basis; they do not include any duplications; and the average costs per ton handled shown are absolutely correct. I disagree absolutely with the contention of Mr. Parsons that, for the purpose used [fol. 1583] on page 33 of exhibit A-124, the total tonnage handled by a given system should be ascertained on the

basis of aggregating the tonnage handled over each separate corporate line on the system. Cost figures on basis of total tonnage so ascertained would be incorrect.

Mr. Parsons in his testimony at Chicago on May 6th, page 5642 of the record, referred to my exhibit A-124 and took exception to the inclusion in Western Trunk Line territory of the D. S. S. & A. Ry., the Lake Superior & Ishpeming Ry., the Green Bay & Western Ry., and the E. J. & E. Ry.; also the inclusion in Southwestern territory of the Missouri & North Arkansas Railway, Midland Valley Railroad, Fort Smith & Western, Louisiana & Arkansas Ry., W. J. & N. W. Ry., J. W. & R. G. Ry., T. & B. V. Ry., and Wichita Valley Railway.

Those lines in the north are almost wholly within the Western Trunk Line Territory and those in the southwest are wholly within Southwestern Territory and for a fair representation of lines wholly, or substantially, within the two territories, I can see no good reason for their exclusion, although they were not specifically covered in the Commission's order At the time I prepared the exhibit I thought it proper to include those lines and there have been no developments since that would compel me to change my mind about the matter (6177-6178).

In this connection I am somewhat at a loss to understand why Mr. Parsons should want to criticize the inclusion of those lines in my exhibit A-124 when he himself included most of those lines in his exhibits A-39 and A-80. Mr. Parsons' exhibits A-39 and A-80, showing traffic density and earnings per ton mile by states and groups of states for the years 1922, 1923 and 1924, include the D. S. S. & A. Ry., the Lake Superior & Ishpeming Ry., and the Green Bay & Western Ry., the D. S. S. & A. Ry. and the Lake Su- [fol. 1584] perior & Ishpeming Ry. being included in the figures for the Upper Peninsula of Michigan and the Green Bay & Western Ry. in the figures for Wisconsin. In the same exhibits Mr. Parsons also included the M. & N. A. Ry., Midland Valley Ry., Fort Smith & Western Ry., Louisiana & Arkansas Ry., S. A. U. & G. Ry., Trinity & Brazos Valley Ry., and Wichita Valley Railway in Southwestern Territory. In view of these facts, why the criticism of the inclusion of these lines in my exhibit A-124?

If it is proper to include those roads in exhibiting certain information and facts, why is it not proper to include them in exhibiting other information and facts?

Exhibit A-124 is entirely consistent all the way through, the same roads having been included in each of the several statements contained therein.

Mr. Parsons included one of the lines in the southwest which I included, and he did not say the Fort Worth & Rio Grande Railway is part of the Frisco System, and it certainly should be included. That applies also with respect to the Wichita Falls & Northwestern, which is part of the system. So that the only line that I have included which he has not included is the E. J. & E. Railroad.

The hearing was then closed (Tr. 6178-6180).

[fol. 1585] Petitioners, through their counsel, also offered in evidence the orders which were made by the Interstate Commerce Commission in the said proceeding entitled Docket No. 15234 before the Interstate Commerce Commission, the said orders consisting of eight documents. The same were received in evidence and marked "Petitioners' Exhibit 2, E. F. M.", and are in words and figures as follows, to-wit:

PETITIONER'S EXHIBIT 2.

AT A GENERAL SESSION OF THE INTERSTATE COMMERCE COMMISSION, HELD AT ITS OFFICE, IN WASHINGTON, D. C., ON THE 8TH DAY OF OCTOBER, A. D. 1923

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Order

The Commission having under consideration the matter of divisions of freight rates and charges in western and

mountain-Pacific territories as defined in Increased Rates, 1920; 58 I. C. C., 220, 58 I. C. C. 302, and 58 I. C. C. 489;

It is ordered, That a proceeding of inquiry and investigation be, and it is hereby, instituted for the purpose of determining whether the divisions of said rates or charges are and for the future will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between or among the respondent carriers hereinafter named, within the meaning of paragraph (6) of section 15 of the interstate commerce act, with a view to prescribing just, reasonable and equitable divisions of rates and charges to be received by the several carriers in the event that existing divisions are determined to be unjust, unreasonable, inequitable or unduly preferential or prejudicial;

[fol. 1586] It is further ordered, That The Atchison, Topeka and Santa Fe Railway Company; The Beaumont, Sour Lake & Western Railway Company; The Chicago and Alton Railroad Company, William W. Wheelock and William G. Bierd, Receivers; Chicago & North Western Railway Company; Chicago, Burlington & Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, Milwaukee and St. Paul Railway Company; The Chicago, Rock Island and Gulf Railway Company; The Chicago, Rock Island and Pacific Railway Company; Chicago, St. Paul, Minneapolis and Omaha Railway Company; The Colorado and Southern Railway Company; The Denver and Rio Grande Western Railroad Company, T. H. Beacom, Receiver; El Paso and Southwestern Company; Fort Worth and Denver City Railway Company; The Galveston, Harrisburg and San Antonio Railway Company; Great Northern Railway Company; Gulf, Colorado and Santa Fe Railway Company; Houston and Shreveport Railroad Company; Houston & Texas Central Railroad Company; The Houston East and West Texas Railway Company; Illinois Central Railroad Company; International-Great Northern Railroad Company; The Kansas City, Mexico & Orient Railroad Company, Wm. T. Kemper, Receiver; Kansas City, Mexico and Orient Railway Company of Texas; The Kansas City Southern Railway Company; Kansas, Oklahoma & Gulf Railway Company; Los Angeles and Salt Lake Railroad Company; The Minneapolis & St. Louis

Railroad Company, W. H. Bremner, Receiver; Minneapolis, St. Paul & Sault Ste. Marie Railway Company; Missouri-Kansas-Texas Railroad Company; Missouri-Kansas-Texas Railroad Company of Texas; Missouri Pacific Railroad Company; New Orleans, Texas & Mexico Railway Company; Northern Pacific Railway Company; Northwestern Pacific Railroad Company; Oregon Short Line Railroad Company; Oregon-Washington Railroad & Navigation Company; Panhandle and Santa Fe Railway Company; Quincy, Omaha & Kansas City Railroad Company; The St. Joseph and Grand Island Railway Company; The St. Louis, Brownsville and Mexico Railway Company; St. [fol. 1587] Louis-San Francisco Railway Company, St. Louis, San Francisco and Texas Railway Company; St. Louis Southwestern Railway Company of Texas; The San Antonio and Aransas Pass Railway Company; San Diego and Arizona Railway Company; Southern Pacific Company; Spokane International Railway Company; Spokane, Portland and Seattle Railway Company; The Texas and Pacific Railway Company, J. L. Lancaster and Charles L. Wallace, Receivers; Union Pacific Railroad Company and The Western Pacific Railroad Company be, and they are hereby, made respondents in this proceeding;

And it is further ordered, That this case be assigned for hearing at such times and places as the Commission may hereafter direct.

By the Commission:

George B. McGinty, Secretary. (Seal.)

INTERSTATE COMMERCE COMMISSION, WASHINGTON

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Notice

October 24, 1923.

On October 8, 1923, the Commission entered upon an investigation into divisions of freight rates in western and mountain-Pacific territories.

For the present, and until further notice, the scope of this investigation will be limited to consideration of the

divisions east and west, respectively, of St. Paul, Minneapolis and Minnesota Transfer, Minn., and Missouri River Crossings, Kansas City, Mo., to Sioux City (Dubuque), Ia., inclusive, of the revenue received by respondents on traffic [fol. 1588] to and from Pacific coast terminals and points taking the same rates, from, to and through Chicago and Peoria, Ill., and points on the Mississippi River, St. Louis to St. Paul and Minneapolis, inclusive.

Appropriate notice will be given of the dates and places of hearings.

By the Commission:

George B. McGinty, Secretary.

INTERSTATE COMMERCE COMMISSION, WASHINGTON

No. 15234. No. 15234

Divisions of Freight Rates in Western and Mountain-Pacific Territories

June 17, 1925. CFS-ACW.

The above entitled proceeding is assigned for further hearing July 7, 1925, ten o'clock a.m., standard time, at the Great Northern Hotel, Chicago, Illinois, before Examiner Disque, at which time testimony will be received with reference to matter of divisions of joint rates between Western Trunk Line Territory and Trans-Missouri Territory, and between Western Trunk Line Territory and Southwestern Territory.

By the Commission:

George B. McGinty, Secretary.

[fol. 1589] INTERSTATE COMMERCE COMMISSION, WASHINGTON

No. 15234. No. 15234

Divisions of Freight Rates in Western and Mountain-Pacific Territories

July 6, 1925. CFS: FG.

Hearing in the above entitled proceeding now assigned for July 7, 1925, at Chicago, Illinois, before Examiner Disque, is cancelled.

By the Commission:

George B. McGinty, Secretary.

INTERSTATE COMMERCE COMMISSION, WASHINGTON, D. C.

No. 15234. No. 15234

Divisions of Freight Rates in Western and Mountain-Pacific Territories

August 26, 1925. CFS: WFG.

The above-entitled proceeding is assigned for hearing October 14, 1925, ten o'clock a. m. standard time, at the Great Northern Hotel, Chicago, Illinois, before Examiner Disque.

Evidence will be received only with respect to divisions between western trunk line territory and southwestern territory.

By the Commission:

George B. McGinty, Secretary.

[fol. 1590] INTERSTATE COMMERCE COMMISSION, WASHINGTON

No. 15234. No. 15234

Divisions of Freight Rates in Western and Mountain-Pacific Territories

September 8, 1925. CS-HR.

Referring to the previous notice setting this case for hearing at Chicago October 14, 1925.

The term "Western Trunk Line Territory" shall be understood to consist of the following states: Iowa, Minnesota, Wisconsin, Illinois, North Dakota, South Dakota, Missouri, on and north of the main line of Missouri Pacific Railroad between Kansas City and St. Louis, and the upper peninsula of Michigan.

The term "Southwestern Territory" shall be understood to consist of the following states: Texas, Arkansas, Oklahoma, Louisiana, west of the Mississippi River, and Missouri, south of the main line of the Missouri Pacific Railroad between Kansas City and St. Louis.

It should also be understood that among the divisions involved are those that apply in subdividing the revenue accruing to respondents out of joint rates on traffic moving through western trunk line territory between points in

southwestern territory and points in the territory east of the Illinois-Indiana state line, on and north of the Ohio River and on and north of the lines formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian railways between Cincinnati, Ohio, and Norfolk, Virginia, including the New England states, New York, and the lower peninsula of Michigan.

By the Commission:

George B. McGinty, Secretary.

[fol. 1591] At a General Session of the Interstate Commerce Commission, Held at Its Office, in Washington, D. C., on the 23rd Day of September, A. D., 1925

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Order

The Commission having under consideration the above-entitled proceeding, and good cause appearing therefor:

It is ordered, That the following carriers be, and they are hereby, made respondents in this proceeding:

St. Louis Southwestern Railway Company,

Louisiana Railway & Navigation Company,

Vicksburg, Shreveport & Pacific Railway Company,

Morgan's Louisiana and Texas Railroad and Steamship Company,

Louisiana Western Railroad Company,

Texas and New Orleans Railroad Company.

By the Commission:

George B. McGinty, Secretary. (Seal.)

At a General Session of the Interstate Commerce Commission, Held at Its Office, in Washington, D. C., on the 28th Day of November, A. D. 1925

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Order

Upon further consideration of the record in the above-entitled proceeding and of petition of respondents to make

[fol. 1592] various oher carriers in the southwest territory respondents in this proceeding:

It is ordered, That the said petition be, and it is hereby, denied.

By the Commission:

George B. McGinty, Secretary. (Seal.)

Petitioners, through their counsel, also offered in evidence a petition which was filed before the Interstate Commerce Commission by respondents in the Southwestern territory in the said proceeding, asking that additional railroads in the Southwestern territory, which are specified in the said petition, should be made respondents (Tr. 10). The said petition, marked "Petitioners' Exhibit 3 E. M. F." for identification, was received in evidence and is in words and figures as follows, to-wit:

PETITIONER'S EXHIBIT 3

BEFORE THE INTERSTATE COMMERCE COMMISSION

I. C. C. Docket No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Petition of Respondents in Southwestern Territory for an Order Making Various Other Carriers in Southwestern Territory Respondents in This Proceeding

Now come Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, St. Louis-San Francisco [fol. 1593] Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, Kansas City Southern Railway Company, Galveston, Harrisburg & San Antonio Railway Company, Houston & Shreveport Railroad Company, Houston East & West Texas Railroad Company, Morgan's Louisiana & Texas Railroad & Steamship Company, Texas & New Orleans Railroad Company, The Texas & Pacific Railway Company, respondents herein, on behalf of themselves and

such other respondents similarly situated as may desire to join herein, and respectfully request this Commission to issue an order making the carriers, herein referred to, respondents in this proceeding, and in support of this petition represent and show unto this Commission as follows:

On October 8, 1923, this Commission, having under consideration the matter of divisions of freight rates and charges in Western and Mountain-Pacific Territories, entered an order herein upon its own motion directing that an inquiry and investigation be instituted for the purpose of determining whether the divisions of said rates or charges were and for the future would be unjust, unreasonable, inequitable or unduly preferential or prejudicial as between or among the respondent carriers named in said order within the meaning of paragraph six of section 15 of the Interstate Commerce Act, with a view to prescribing just, reasonable and equitable divisions of rates and charges to be received by the several carriers in the event that the existing divisions were determined to be unjust, unreasonable, inequitable or unduly preferential or prejudicial. By this order various carriers were made respondents in this proceeding, including a number of the principal lines operating in Southwestern territory. Originally the hearings in this proceeding were confined to the divisions of rates between the transcontinental lines and the western trunk lines. On June 17, 1925, however, this Commission issued [fol. 1594] a notice assigning this proceeding for further hearing at Chicago, July 7, 1925, before Examiner Disque, at which time it was stated in said notice testimony would be received with reference to the matter of divisions of joint rates between western trunk line territory and southwestern territory. On July 6, 1925, this Commission issued a notice cancelling the hearing set for July 7, 1925, at Chicago. On August 26, 1925, notice was issued assigning this proceeding for hearing October 14, 1925, at Chicago, before Examiner Disque, when evidence would be received only with respect to divisions between western trunk line territory and southwestern territory. On September 23, 1925, this Commission issued an order naming certain additional southwestern carriers as respondents herein. At the hearing on October 14, 1925, the western trunk line carriers introduced a part of their testimony in chief but did not complete their evidence and the hearing was adjourned to No-

vember 16, 1925, at Chicago, to enable them to complete their case.

Respondents attach hereto, marked "Appendix A," a list of carriers in southwestern territory not now parties hereto which they request this Commission by an appropriate order to make respondents in this proceeding. Respondents state that said carriers unite with them in the publication of joint rates the divisions of which are involved herein, participate in the transportation of the traffic to which said joint rates apply and receive substantial divisions and earnings out of said joint rates. Many of the divisions in southwestern territory have been fixed by this Commission, such as those between the so-called tap lines and trunk lines, between the Missouri & North Arkansas Railway Company and its immediate connections and between the Kansas City, Mexico & Orient lines and their immediate connections, but the present proportions should not remain stationary if the primary divisions are read- [fol. 1595] justed. As the record now stands, however, no order can be made by this Commission affecting their revenues.

Respondents further state that since this is an investigation of divisions instituted by the Commission on its own motion it should not content itself with dealing with the main or primary divisions of the joint rates between the immediately connecting Western trunk lines and southwestern lines north and south of the gateways of Kansas City, St. Louis, Cairo, Thebes, etc., but should also deal with and prescribe the necessary readjustment of divisions which apply in subdividing the revenue accruing to all lines participating in the joint rates in southwestern territory.

Respondents further allege that if, as a result of this inquiry and investigation, the Western trunk lines are accorded increases in their divisions, and the carriers listed in Appendix A are not made respondents herein, these respondents will be compelled to absorb the entire increases out of their divisions. The result will be that these respondents will receive divisions of rates which are unjust, unreasonably low, inequitable and inadequate for the service performed by them. Moreover, if the divisions of these respondents are reduced and the shares of all other lines which participate in the joint rates and the transportation of the traffic in southwestern territory, including the lines

named in Appendix A hereto, are left unchanged, controversies will immediately arise as to a readjustment of the divisions between these respondents and said carriers, and this Commission will be called upon to determine and prescribe the divisions which shall be received by the various carriers within southwestern territory. Such controversies will result in a multiplicity of proceedings before this Commission. Hence, these respondents contend that in justice and fairness to them any readjustment of the pri- [fol. 1596] mary divisions as between the western trunk lines and southwestern lines should be accompanied by a simultaneous readjustment of the divisions between all lines participating in the joint rates and transportation of the traffic in southwestern territory, and that such readjustment should not be left to future proceedings before this Commission, but should be determined and prescribed herein. Respondents state that it is entirely practicable to fix the subdivisions of the rates in southwestern territory in this proceeding and that no delay will result from making the carriers listed in Appendix A parties to this case.

Wherefore respondents pray that an order issue making the carriers listed in Appendix A hereto respondents in this proceeding.

Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, by C. S. Burg, Their Attorney. Missouri-Pacific Railroad Company, by H. H. Larimore, Its Attorney. St. Louis-San Francisco Railway Company, by M. G. Roberts, Its Attorney. St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, by J. R. Turney, Their Attorney. Kansas City Southern Railway Company, by W. E. Davis, Its Attorney. Galves- [fol. 1597] ton, Harrisburg & San Antonio Railway Company, Houston & Shreveport Railroad Company, Houston East & West Texas Railroad Company, Morgan's Louisiana & Texas Railroad & Steamship Company, Texas & New Orleans Railroad Company, by Baker, Botts, Parker & Garwood, J. R. Bell, G. H. Muckley, Their Attorneys. The Texas & Pacific Railway Company, by T. D. Gresham, Its Attorney.

Appendix A

Abilene and Southern Railway Company,
Angelina & Neches River Railroad Company,
Arkansas Harbor Terminal Railway,
Arkansas Railroad,
Arkansas & Louisiana Missouri Railway Company,
Asherton and Gulf Railway Company,
Ashley, Drew & Northern Railway Company,
Asphalt Belt Railway Company,
Augusta Railroad Company,
Bartlett Western Railway,
Bauxite & Northern Railway Company,
Beaver Meade and Englewood Railroad Company,
Beirne & Clear Lake Railroad,
Blytheville, Leachville & Arkansas Southern Railroad Company,
Brimstone Railroad & Canal Company,
[fol. 1598] Brookings & Peach Orchard Railroad Company,
The Brownwood North and South Railway Company,
Cache Valley Railroad Company,
Cairo, Truman & Southern Railroad Company,
Cape Girardeau Northern Railway Company (Clarence L. Grant, Receiver),
Cairo Northern Railway Company (W. M. Ross, Receiver),
Central Railway Company of Arkansas,
Christie & Eastern Railway Company,
Cisco & Northeastern Railway Company,
The Clinton and Oklahoma Western Railroad Company,
Combs, Cass and Eastern Railroad Company,
Dardanelle & Russellville Railroad Company,
Dayton-Goose Creek Railway Company,
The Denison, Bonham & New Orleans Railroad Company,
DeQueen and Eastern Railroad Company,
Doniphan, Kensett & Searcy Railway,
Eastland, Wichita Falls & Gulf Railroad Company,
East Texas and Gulf Railway Company,
El Dorado and Wesson Railway Company,
Fordyce and Princeton R. R. Co.,
Fort Smith and Western Railway Company,
Fort Smith, Subiaco & Rock Island Railroad Company,
Fort Worth & Rio Grande Railway Company,
The Franklin and Abbeville Railway Company,

Fredericksburg & Northern Railway Company,
Galveston, Houston and Henderson Railroad Company,
Garyville Northern Railroad Company,
Graysonia, Nashville & Ashdown Railroad Company,
Groveton, Lufkin & Northern Railway Company,
[fol. 1599] Gulf & Northern Railway Company,
The Gulf & Sabine River Railroad Company,
Gulf, Texas & Western Railway Company (W. Frank Knox, Receiver),
Houston and Brazos Valley Railway Company,
Iberia and Vermillion Railroad Company,
Jefferson & Northwestern Railway Company,
Kansas, Oklahoma & Gulf Railway Company of Texas,
Kinder & Northwestern Railroad Company,
Leesville, Slagle & Eastern Railway Company,
Loranger, Louisiana & Northeastern Railroad Company (A. Loranger, Rec.),
Louisiana & Arkansas Railway Company,
The Louisana and North West Railroad Company,
Louisana and Pacific Railway Company,
Louisiana & Pine Bluff Railway Company,
Louisana Railway & Navigation Company of Texas,
Louisiana Southern Railway Company,
Lufkin, Hemphill and Gulf Railway Company,
Manilla and Southwestern Railway Company,
The Mansfield Railway & Transportation Company,
Marshall, Elysian Fields and Southeastern Railway Company,
Miami Mineral Belt Railroad Company,
Midland Valley Railroad Company,
Mississippi River and Bonne Terre Railway,
Missouri-Illinois Railroad Company,
Missouri and North Arkansas Railway Company,
Missouri Southern Railroad Company,
Monroe & Texas Railroad Company,
Montana Railroad,
Moscow, Camden & San Augustine Railroad,
Motley County Railway Company,
[fol. 1600] Murfreesboro-Nashville Southwestern Railway Company,
The Nacogdoches & Southeastern Railroad Company,
Natchez, Nrania & Ruston Railway Company,
Neame, Carson & Southern Railroad Company,

New Iberia & Northern Railroad Company,
Northeast Oklahoma Railroad Company,
North Louisana & Gulf Railroad Company,
Oakdale & Gulf Railway Company,
Oklahoma & Arkansas Railway Company (Title Guaranty and Trust Company, Receivers),
Oklahoma City-Ada-Atoka Railway Company,
Oklahoma, New Mexico & Pacific Railway Company,
Oklahoma Railway Company (George A. Henshaw and John W. Shartel, Receivers),
Oklahoma-Southwestern Railway Company,
Oklahoma Union Railway Company,
Okmulgee Northern Railway Company,
The Orange & Northwestern Railroad Company,
Osage Railway Company,
Ouachita and Northwestern Railroad Company,
Paris and Mt. Pleasant Railroad Company (R. W. Worthem, Receiver),
The Pecos Valley Southern Railway Company,
Pine Bluff and Northern Railway Company (J. K. Riffel, Receiver),
Pittsburg County Railway Company,
Port Bolivar Iron Ore Railway Company,
The Prescott and North Western Railroad Company,
Quanah, Acme & Pacific Railway Company,
Red River and Gulf Railroad,
Rio Grande and Eagle Pass Railway Company,
Roby & Northern Railroad Company,
[fol. 1601] Rockdale, Sandow & Southern R. R.,
Roscoe, Snyder and Pacific Railway Company,
Sabine & Neches Valley Railway Company,
St. Louis, El Reno and Western Railway Company (Lewis T. Tune, Receiver),
St. Louis, Kennett & Southeastern Railroad Company,
San Antonio Southern Railway Company,
San Antonio, Uvalde & Gulf Railroad Company (A. R. Ponder, Receiver),
San Benito and Rio Grande Valley Railway Company,
Sand Springs Railway Company,
Shreveport, Alexandria & Southwestern Railway System,
The Sibley, Lake Bisteneau & Southern Railway Company,
Shreveport, Houston & Gulf Railroad Company,
Sugarland Railway Company,

Texarkana and Fort Smith Railway Company,
Texas City Terminal Railway Company,
The Texas Mexican Railway Company,
Texas Midland Railroad,
Texas, Oklahoma & Eastern Railroad Company,
Texas Short Line Railway Company,
Texas South-Eastern Railroad Company,
Thornton and Alexandria Railway Company,
Tremont & Gulf Railway Company,
The Trinity and Brazos Valley Railway Company (John A. Hulen, Receiver),
Trinity Valley & Northern Railway Company,
Trinity Valley Southern Railroad Company,
Union Traction Company, The (Kansas)
Uvalde & Northern Railway Company,
[fol. 1602] Waco, Beaumont, Trinity & Sabine Railway Company,
Warren & Ouachita Valley Railway Company,
Warren & Saline River Railroad Company,
The Weatherford, Mineral Wells and Northwestern Railway Company,
Wichita Falls and Southern Railroad Company,
Wichita Falls, Ranger and Fort Worth Railroad Company (J. W. Mitchell, Receiver),
The Wichita Valley Railway Company,
Woodworth & Louisiana Central Railway Company, The.

Petitioners, through their counsel, also offered in evidence as Petitioners' Exhibit No. 4, the proposed report which was filed by Attorney-Examiner William A. Disque of the Interstate Commerce Commission, in this proceeding. Mr. Moore, attorney for petitioners, stated that in many proceedings before the Commission an examiner hears the evidence and writes out a proposed report, stating the decision which he recommends that the Commission should render, and that this is the proposed report that was prepared by the examiner in this case. Mr. Collins, Solicitor for the United States, objected to the report being received in evidence on the ground that it has nothing to do with anything in the proceeding, cannot be considered as evidence, cannot bind the Commission, is not an opinion of the Commission, and at most is only a summarization of testimony by the examiner from the records which the Court

has certified before it; moreover, that the conclusions of the examiner are not binding on the Commission, and that the proposed report has no place at all in the record.

[fol. 1603] Judge Reeves: Did the final opinion follow the proposed report as adopted?

Mr. Collins: No, your Honor.

Mr. Moore: It did not, your Honor. It is our position that this proposed report is one of the steps in the case, and, in our view, throws some light on the manner in which the case was handled and the positions that were taken by the various parties. Now the Commission in its report says that the Examiner in his proposed report made certain statements about the transportation conditions in the Western Trunk Line Territory as compared with the Southwestern Territory, and that no exceptions were filed to his report. Naturally, the decision of the Examiner having been in favor of the Southwestern Railroads, they had no occasion to take any exceptions to the report, and yet the Commission now treats this as an admission on our part. For that reason, as well as some others, we think that this throws a light on the attitude of the parties in the case.

There are other statements in the Commission's report as to the attitude of the parties, which are explained by this proposed report of the Examiner.

After this proposed report is filed, the parties file exceptions to it; that is, the losing party files exceptions. It is one of the steps in the progress of this kind of a case, and we certainly think that it is admissible.

Judge Gardner: It is referred to by the Commission in its report?

Mr. Moore: It is, your Honor.

Mr. Towner: I would like to concur in the objection made by Mr. Collins on behalf of the Government, and add this: that while the report of the Examiner at the time it was issued might be said to throw light on the position taken by the parties, that report is nevertheless disre-[fol. 1604] garded by the Commission in its order, which is attacked, and which totally reverses the recommendations of the Examiner in his conclusions as to what should be done. Unfortunately for him in this case, the Commission did not agree with him, and it seems to me that any conclu-

sion that he may have reached or any statement that he may have made, certainly should not be considered as binding on any party to this case in view of the complete reversal of the Examiner by the Commission in the order in this case.

Judge Gardner: The Commission does make reference to this report?

Mr. Towner: The Commission in its decision does make reference to this tentative report and does quote, I think, in two places from it, as Mr. Moore has stated.

Judge Gardner: The exhibit will be received, subject to the objection.

The said proposed report, marked for identification as Petitioners' Exhibit 4 E. F. M., was received in evidence, and is in words and figures as follows:

PETITIONERS' EXHIBIT 4

INTERSTATE COMMERCE COMMISSION

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Submitted ——— —, ———. Decided ——— —, ———

Divisions in the aggregate north and south of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, [fol. 1605] and Thebes, Ill., respectively, of joint rates on freight traffic in general between points in western trunk line territory, on the one hand, and points in the Southwest, on the other, not found unreasonable, inequitable or otherwise unlawful.

Silas H. Strawn, Ralph M. Shaw, R. N. Van Doren, H. T. Dick, J. N. Davis, M. M. Joyce, K. F. Burgess, L. H. Strasser, R. V. Fletcher, and Frank H. Towner for western trunk lines.

C. S. Burg, M. G. Roberts, H. H. Larimore, W. E. Davis, J. R. Turney, J. R. Bell, G. H. Muckley, T. D. Gresham,

Elmer Westlake, F. E. Andrews, and R. S. Outlaw for southwestern lines.

Report Proposed by Wm. A. Disque, Attorney-Examiner

This proceeding, instituted on our own motion, is an inquiry into the propriety of the divisions of the joint rates of the principal carriers in the territory covered by the western and mountain-Pacific groups as defined in Ex Parte 74, Increased Rates, 1920, 58 I. C. C. 220; 58 I. C. C. 302; and 58 I. C. C. 489.

In so far as it relates to the divisions in the aggregate east and west of St. Louis, Minneapolis and Minnesota Transfer, Minn., and the Missouri River crossings, Kansas City, Mo., to Sioux City, Iowa, inclusive, of joint rates between Chicago and Peoria, Ill., and St. Louis, Mo., and related points in western trunk line territory, on the one hand, and points in Pacific coast territory, on the other, the case was disposed of informally several years ago by the carriers after extended hearings, with the assistance of the examiner, and revised divisions become effective July 1, 1925. In connection with this settlement, revised divisions east and west of the Minneosta and Missouri River gateways mentioned of joint rates between Chicago, Peoria and St. Louis, and related points in western trunk line territory, on the one hand, and points in trans-Missouri terri- [fol. 1606] tory as far west as the eastern border of the Pacific coast territory, on the other, including points in Oklahoma on the Atchison, Topeka & Santa Fe; Chicago, Rock Island & Pacific; and Missouri Pacific via Kansas City, were agreed upon and made effective on the above date, without having been made the subject of a hearing. The readjustment of divisions under these settlements is yielding the lines east of the gateways about three million dollars per year.

This report deals only with the divisions in the aggregate north and south of Kansas City and St. Louis, Mo., and East St. Louis, Cairo, Gale, and Thebes, Ill., respectively, of joint rates between points in western trunk line territory

generally east of the Missouri River[1] and points in the Southwest.[2]

By the terms of our order divisions via Mississippi River crossings south of Cairo would be included, but no question is presented with respect thereto at this time. Divisions on traffic to and from points in western Louisiana within the switching limits of New Orleans, La., and those on traffic via Kansas City to and from points in Oklahoma on the Atchison, Topeka & Santa Fe; Chicago, Rock Island & Pacific; and Missouri Pacific, disposed of in the settlement of trans-Missouri divisions, are likewise excluded by the parties from present consideration. The divisions under consideration apply not only on traffic having origin and destination in the territories mentioned, but also in subdividing the western lines' proportions of the joint rates on [fol. 1607] traffic moving between points in the Southwest and points in territory east of the Illinois-Indiana State Line and on and north of the Ohio River and the line formed by the Chesapeake & Ohio, Norfolk & Western, and Virginian Railways between Cincinnati, Ohio, and Norfolk, Va., including the New England States, New York, and the lower peninsula of Michigan. Repeated efforts were made both before and after the hearings to dispose of this phase of the case informally, but they proved unavailing and the matter was submitted to us only as a last resort. It has been our policy in this case to leave the carriers free to dispose of their divisional controveries without our formal intervention wherever that was possible, and to not enter upon a consideration of questions of divisions except where it should develop that that was the only feasible method of settlement. This policy has been concurred in by the parties generally.

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[1] Embracing the States of Iowa, Minnesota, Wisconsin, Illinois, North Dakota, South Dakota, Missouri, on and north of the main line of Missouri Pacific between Kansas City and St. Louis, and the upper peninsula of Michigan.

[2] Embracing the States of Texas, Arkansas, Oklahoma, Louisiana, west of the Mississippi River, and Missouri, south of the main line of the Missouri Pacific between Kansas City and St. Louis.

The western trunk lines, actively seeking increases in their divisions, are the aggressors, and for convenience of statement they will be referred to as complainants. The Southwestern lines, though they say that increases in their divisions would be justified, are in the main seeking merely to hold what they have, and will be spoken of as defendants. Complainants [3] are principally the important lines in western trunk line territory that have little or no mileage in the [fol. 1608] Southwest and defendants [4] are principally the important lines in the Southwest that have little or no mileage in western trunk line territory. The Atchison, Topeka & Santa Fe, operating important lines in both territories, chooses to regard itself for the purposes of this proceeding as a southwestern line. The Chicago, Rock Island & Pacific, however, likewise having important lines in both territories, apparently remains neutral, although when the divisions to and from the Pacific coast territory were considered it aligned itself with the Western trunk lines.

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[3] Chicago & Alton; Chicago & North Western; Chicago, Burlington & Quincy; Chicago Great Western; Chicago, Milwaukee & St. Paul; Chicago, St. Paul, Minneapolis & Omaha; Illinois Central; Minneapolis & St. Louis; Minneapolis, St. Paul & Sault Ste. Marie; Missouri Pacific; Quincy, Omaha & Kansas City; Chicago & Eastern Illinois; and Wabash.

[4] Atchison, Topeka & Santa Fe; Beaumont, Sour Lake & Western; Chicago, Rock Island & Gulf; Chicago, Rock Island & Pacific; Fort Worth & Denver City; Galveston, Harrisburg & San Antonio; Gulf, Colorado & Santa Fe; Houston & Shreveport; Houston & Texas Central; Houston East & West Texas; International-Great Northern; Kansas City, Mexico & Orient; Kansas City, Mexico & Orient of Texas; Kansas City Southern; Kansas, Oklahoma & Gulf; Louisiana Railway & Navigation; Louisiana Railway & Navigation of Texas; Louisiana Western; Missouri-Kansas-Texas; Missouri-Kansas-Texas of Texas; Missouri Pacific; Morgan's Louisiana & Texas; New Orleans, Texas & Mexico; Pan Handle & Santa Fe; St. Louis, Brownsville & Mexico; St. Louis-San Francisco; St. Louis, San Francisco & Texas; San Antonio & Aransas Pass; Texas & Pacific; St. Louis Southwestern; St. Louis Southwestern of Texas; and Texas & New Orleans.

Complainants and defendants alike admit that there are instances wherein individual divisions are perhaps open to question. A revision of such divisions may be justifiable, but the parties are not particularly interested in that matter. They are here concerned with individual divisions only to the extent that a change therein might accomplish the revenue effects respectively desired. A more consistent, logical and so-called scientific adjustment would be objectionable to complainants if it did not yield them substantially increased returns, and to defendants, if it did not either preserve the status quo or yield them additional revenue. What complainants seek and defendants oppose is a finding that complainants are entitled to substantially increased revenues in the aggregate out of the traffic under [fol. 1609] consideration, to be accompanied by a fixation of divisions appropriate to that end.

The present divisions vary widely according to the kinds of traffic. There are so-called merchandise divisions, applying on traffic in general, and various special divisions for a number of important commodities, but principally lumber and oil. By oil, we mean petroleum and its products. Most of the divisions were established during the period from 1892 to 1896, inclusive, but those on oil from Oklahoma via Kansas City are the result of arbitration as late as 1916. The divisions generally apply from and to large groups of points. They are not on any exact or uniform basis. They represent largely the play of competitive forces. As a whole, they yield the southwestern lines considerably in excess of what they would receive under a mileage prorate. Complainants contend that the record justifies the establishment of a mileage prorate and, subject to certain exceptions hereinafter noted, they seek relief on that basis, which would probably yield them between two and two and one-half million dollars per year. They are willing that the southwestern lines deduct their usual differentials before dividing the rates on traffic to and from Texas differential territory; and as to traffic to and from points in Oklahoma and Southwestern Missouri on the Kansas City Southern, Missouri-Kansas-Texas and St. Louis-San Francisco, they are willing to accept in lieu of a mileage prorate an increase of 14 per cent, which would be in harmony with that granted them by the Atchison, Topeka

& Santa Fe; Chicago, Rock Island & Pacific; and Missouri Pacific in connection with the Trans-Missouri and transcontinental settlements of 1925. The 14 per cent increase would still yield the western trunk lines considerably less than they would get under a mileage prorate, but they are willing to forego that basis on this traffic in their desire not to interfere with the settlement made with the Oklahoma [fol. 1610] lines last named.

Complainants are willing to eliminate from the case the divisions on lumber. The rates on lumber from the Southwest to points in Iowa, Minnesota and other States were originally made on the Cairo, Gale or Thebes combinations, and via those gateways were divided as made. The combinations on St. Louis and East St. Louis have generally been higher, but joint rates were provided via those gateways equal to the combinations on the lower crossings named. In the division of these joint rates the lines south of St. Louis and East St. Louis for years received 18 cents per 100 pounds, or one cent less than the corresponding locals, but later, when the St. Louis Southwestern extended its line into St. Louis, it demanded its local of 19 cents. A dispute immediately arose and in Rates on Lumber and other Forest Products, 31 I. C. C. 673, we required the St. Louis Southwestern to accept 18 cents, the same as its competitors did. Subsequently, the carriers themselves adopted 18 cents as the division of the joint rate to points in Illinois and Wisconsin. Except for the general increases and reduction this basis still stands. To some extent, due to carrier competition, it has influenced the divisions via Kansas City. A mileage prorate on lumber would yield complainants some additional revenue, but the present basis is sufficiently close to the desired basis as to be reasonably satisfactory to them. The divisions on oil are apparently about as near a mileage prorate as are those on lumber, and as we understand it complainants are willing to eliminate them also. Complainants' case is directed mainly at the merchandise and general commodity divisions, which yield them far less than they would get under a mileage prorate. Defendants, however, are not willing that the divisions on lumber and oil be eliminated. They expect their proportions on these commodities to be increased if they suffer any reductions in the merchandise and general commodity divisions.

[fol. 1611] About two-thirds of the carload traffic to which the divisions apply is northbound, primarily oil, but largely lumber. These two commodities comprise more than half of all the carload traffic under consideration. Most of the oil moves from Oklahoma via Kansas City and most of the lumber from Louisiana via East St. Louis. The remainder of the carload traffic is mainly northbound mineral and agricultural products, and southbound mineral, agricultural and industrial products. About two-thirds of the carload traffic moves via Kansas City and most of the balance via East St. Louis, the proportion via Cairo, Gale and Thebes being rather light, comprising perhaps only 2.5 per cent of the total. The following table shows the amount of the carload tonnage[5], the average hauls per ton and the number of ton-miles via the several gateways for the month of June, 1924, except as otherwise noted:

		Average haul per ton (miles)		Ton-miles	
Via	Tons	North	South	North	South
Kansas City	172,450	465	425	80,119,760	73,255,806
East St. Louis	82,770	271	502	22,427,320	41,555,117
Cairo, Gale and Thebes	6,204	290	251	1,796,229	1,560,407
All gateways	261,424	405	443	104,343,309	116,361,330
All gateways	.....	x348	x466	.....	.....

There is no data of record for less-than-carload traffic.

To obtain some idea of the extent to which the present divisions yield the southwestern lines more than they would [fol. 1612] receive under a mileage prorate, most all the carload traffic to which these divisions were applicable during the months of June and October, 1924, as pictured in

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[5]Embraces all carload traffic between points in the Southwest and points on the Chicago & Alton; Chicago & Eastern Illinois; Chicago & North Western; Chicago Great Western; Chicago, Milwaukee & St. Paul; Chicago, St. Paul, Minneapolis & Omaha; Illinois Central; Minneapolis & St. Louis; and Wabash.

[x] Embraces all carload traffic between the Southwest and western trunk line territory in October, 1924.

the above table, was made the basis of certain tests. It was developed that for every mile of service south of the gateways, the southwestern lines received revenue for a little over 1.3 constructive miles of service. The following table shows the constructive mileage represented by the proportions accruing to the southwestern lines on the carload traffic moving in June, 1924:

	Revenue per ton		Revenue per ton-mile (mills)		Average haul (miles)		Equated mileage, S.W.L.	Constructive mileage for each mile of service, S.W.L.
	W.T.L.	S.W.L.	W.T.L.	S.W.L.	W.T.L.	S.W.L.		
Lumber	$2.56	$4.61	8.07	9.07	317	508	571	1.12
Oil	3.69	3.69	8.25	9.28	447	398	447	1.12
Livestock	4.06	9.18	8.59	16.17	472	568	1,069	1.88
Other carload freight	3.94	8.47	10.57	17.00	373	498	801	1.61
All carload freight	3.53	4.98	8.71	11.26	405	443	572	1.29

It will be noted that lumber and oil move on divisions much more nearly approaching a mileage prorate than does other traffic. As above stated, considerably more than half the traffic is in these two commodities. Appendix No. 1 goes more into detail, showing in the final column on each page the constructive mileage for traffic to and from each southwestern state for the month just mentioned. It may be observed that while in most instances the constructive mileage in the Southwest exceeds the actual mileage, there are instances where the reverse is true.

The indicated net result to the Southwestern lines is that their revenue from the traffic in question is somewhat over 12 per cent greater than it would be under a mileage prorate. The following table shows the situation in more detail, for the months of June and October, 1924, combined:

[fol. 1613]

	Ton-miles	Per cent	Revenue	Per cent	Per cent Southwestern Lines revenue is of that which would accrue under a mileage prorate
Lumber:					
W. T. L.....	37,013,286	37.55	$311,875.00	35.56	103.2
S. W. L.....	61,551,184	62.45	565,261.35	64.44	
Total	98,564,470	100	$877,136.35	100	
Oil:					
W. T. L.....	131,492,329	51.41	$1,968,231.09	48.50	106
S. W. L.....	124,281,257	48.59	1,134,480.63	51.50	
Total	255,773,586	100	$2,202,711.72	100	
Other carload traffic:					
W. T. L.....	88,701,573	42.64	$877,298.99	32.39	
S. W. L.....	119,341,253	57.36	1,830,931.99	67.61	117.9
Total	208,042,826	100	$2,708,230.88	100	
All carload traffic:					
W. T. L.....	257,207,188	45.74	2,257,405.98	39.00	
S. W. L.....	305,173,694	54.26	3,530,674.97	61.00	112.4
Total	562,380,882	100	$5,788,080.05	100.00	

The above table treats each territory as an entirety. The data segregated as to individual southwestern states shows

a much wider range of per cents by which the revenue of the southwestern lines exceeds that which would accrue under a mileage prorate. The following table is illustrative of the general situation:

Commodity	Direction of movement	Gateway	Per cent
Lumber	From Missouri.....	East St. Louis.....	140.3
"	" Arkansas.....	Kansas City.....	96.2
"	" Louisiana.....	Thebes	93.2
Oil	" Arkansas.....	"	79.9
"	" Oklahoma.....	Kansas City.....	110.6
"	" Texas.....	East St. Louis.....	105.1
"	" Oklahoma.....	"	99.8
Other than above.	To and from Missouri...	Kansas City.....	158.0
" " " .	" " " Louisiana..	"	102.2
" " " .	" " " Oklahoma..	East St. Louis.....	114.6
" " " .	" " "	" ..Kansas City.....	150.3
" " " .	" " "	Arkansas...East St. Louis.....	112.8
" " " .	" " "	Louisiana.. "	104.3
" " " .	" " "	Texas.....Thebes	98.8

The proportions accruing to the southwestern lines more nearly approach the amounts of the corresponding locals to and from the gateways than do those of the western trunk lines.

[fol. 1614] Since the "nineties," when most of the divisions were established, on what complainants assume must have been a reasonable basis, conditions have materially changed. During the last 30 years both western trunk line territory and the Southwest have enjoyed a substantial increase in population, but the increase in the Southwest has been somewhat greater than in western trunk line territory. Railroad mileage also has substantially increased in both territories, but the increase in the Southwest has been particularly pronounced. As an agricultural region the Southwest has had a growth that has far surpassed that of western trunk line territory. The development of the oil business in the Southwest is of outstanding importance and has no counterpart in western trunk line territory. Industrial growth, however, has been of less consequence in the Southwest than in western trunk line territory. These changed conditions have operated to change materially the relative positions of the two groups of carriers to the advantage of those serving the Southwest.

Much evidence was offered to show the extent to which the general level of rates in the Southwest exceeds that in

western trunk line territory. The class rates are much higher in the Southwest. They are particularly high compared with those in Illinois, in which state apparently about 70 per cent of the traffic under consideration moves for at least a considerable portion of the distance, and where traffic is denser and operating conditions more favorable than in western trunk line territory generally or the Southwest. In the following table are shown representative class rates in Illinois, established as a result of Illinois Classification, 56 I. C. C. 202, and increased under Intrastate Rates within Illinois, 60 I. C. C. 92, compared with those for similar distances recently prescribed for the Southwest in Consolidated Southwestern Cases, 123 I. C. C. 203, the rates in Illinois being shown in the lower line and those [fol. 1615] for the Southwest in the upper line opposite each distance figure:

Distance (miles)	Classes 1	2	3	4	5	A	B	C	D	E
50	58	49	41	32	22	26	19	16	13	10
	46	39	31	23	16	18.5	15	13	10.5	9
100	79	67	55	43	30	36	26	22	18	14
	54	46	36	27	19	21.5	17.5	15	12	11
150	97	82	68	53	37	44	32	27	22	17
	63.5	54	42.5	32	22	25.5	20.5	18	14.5	12.5
200	109	93	76	60	41	49	35	30	25	19
	72.5	61.5	48.5	36.5	25.5	29	23.5	20.5	16.5	14.5
250	123	105	86	68	47	55	40	34	28	22
	77.5	66	52	39	27	31	25	21.5	17.5	15.5
300	133	113	93	73	51	60	43	37	30	23
	82	69.5	55	41	28.5	33	26.5	23	18.5	16.5
350	147	125	103	81	56	66	48	40	33	26
	87	74	58.5	43.5	30.5	35	28.5	24.5	19.5	17.5
400	157	133	110	86	60	71	51	43	35	27
	91	77.5	61	45.5	32	36.5	29.5	25.5	20.5	18
450	167	142	117	92	63	75	55	46	38	29
	96.5	82	64.5	48.5	34	38.5	31.5	27	21.5	19.5
500	174	148	122	96	66	78	57	48	39	30
	100.5	85.5	67.5	50.5	35	40	32.5	28	22.5	20

The rates prescribed for the so-called Kansas-Missouri territory in the report last cited are about 7 per cent below those prescribed for the Southwest. The class rates applying in the balance of the western trunk line territory con-

siderably exceed those in Illinois, but are much lower than those prescribed for the Southwest. The class rates in western trunk line territory are not on a modern or consistent basis and are not altogether appropriate for comparisons. They are under review in Ex Parte 87 (Sub-No. 1), Class Rates within Western Trunk Line Territory.

The level of commodity rates is also much higher in the Southwest than in western trunk line territory. If the comparisons submitted are typical, the difference amounts to probably 40 or 50 per cent. The force of the compari- [fol. 1616] sons is reduced, however, by the fact that some of the rates used are paper rates. Many of them apparently move large volumes of traffic in one territory and little, if any, in the other territory. It is impossible to get any exact idea of the situation. The prescribed class rates are perhaps a more satisfactory guide than are the present commodity rates, for the reason that the latter reflect many special conditions that have not affected the class rates. Most of the southwestern commodity rates used in the comparison are embraced by the general revision required in Consolidated Southwestern Cases, supra, but the new rates, like the present rates, are to be much higher than those at present maintained in western trunk line territory.

About the only conclusion that can safely be drawn from these rate data is that the general rate level in the Southwest greatly exceeds that in western trunk line territory. The question as to what the difference is must remain unanswered.

The statistics hereinafter dealt with, relating to traffic density, operating expenses and financial conditions, were prepared by respondents according to several different theories or methods, and lead to different results. All of them are more or less subject to just criticism. Complainants use only the data of respondent carriers, although the divisions apply for the account of all or practically all carriers participating in the transportation. They thus eliminate from the western trunk line group the Duluth, South Shore & Atlantic; Elgin, Joilet & Eastern; Green Bay & Western; and Lake Superior & Ishpeming. The traffic of these four carriers is peculiar, embracing but little busi-

ness to and from the Southwest. Complainants' data likewise excludes from the southwestern groups the Fort Smith & Western; Louisiana & Arkansas; Midland Valley; Missouri & North Arkansas; Fort Worth & Rio Grande; San Antonio, Uvalde & Gulf; Trinity & Brazos Valley; and [fol. 1617] Wichita Valley, none of which are respondents. Defendants generally use data of all class I carriers in the western district that serve either or both of the two territories, and thus include the above-named carriers. Complainants also exclude from their statistics for western trunk line territory data of the Atchison, Topeka & Santa Fe; Chicago, Rock Island & Pacific; and Missouri Pacific, all respondents, and include them only in their showing for the Southwest, although these carriers have rather extensive operations in both territories. Defendants offer statistics with data of the Atchison, Topeka & Sante Fe and the Chicago, Rock Island & Pacific included in both groups and separately with them excluded from both groups. Some of complainants' statistics include in each group only what we may call the strictly western trunk line and strictly southwestern carriers; namely, those that have all or practically all their mileage in either one of the groups, excluding altogether the Atchison, Topeka & Santa Fe; Chicago & North Western; Chicago, Burlington & Quincy; Chicago, Milwaukee & St. Paul; Chicago, Rock Island & Pacific; Illinois Central; Missouri Pacific; and Wabash, all of which have extensive lines in one or both territories as well as elsewhere in the west, and all of which are large systems, handling great volumes of traffic. Exclusion of these lines leaves in the western trunk line group only the smaller and weaker lines; namely, the Chicago & Alton; Chicago & Eastern Illinois; Chicago Great Western; Chicago, St. Paul, Minneapolis & Omaha; Minneapolis & St. Louis; Minneapolis, St. Paul & Sault Ste. Marie; and Quincy, Omaha & Kansas City.

The following table shows the freight revenues per million ton-miles, derived from both rates and divisions of all traffic, for three years:

(Here follows table, side folio 1618)

[fol. 1618]

All Class I Carriers

	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in Southwestern group only		Strictly Western Trunk lines	Strictly Southwestern lines
	Western Trunk lines	Southwestern lines	Western Trunk lines	Southwestern lines	Western Trunk lines	Southwestern lines		
1922	.....	.....	.....	.....	10,570	14,000	.....	.....
1923	$11,310	$13,660	$10,730	$13,650	10,230	13,210	.....	.....
1924	11,280	13,260	10,780	13,330	10,300	12,810	$10,350	$13,510
Average	11,295	13,460	10,755	13,490	10,370	13,340	10,350	13,510

In this connection the average hauls on all traffic should be considered. They are as follows, in miles:

All Class I Carriers

	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in Southwestern group only		Strictly Western Trunk lines	Strictly Southwestern lines
	Western Trunk lines	Southwestern lines	Western Trunk lines	Southwestern lines	Western Trunk lines	Southwestern lines		
1922	...	...	...	...	235	210	...	...
1923	217	228	204	198	225	206	...	...
1924	221	232	204	201	225	208	191	167
Average	219	230	204	200	228	208	191	167

The strictly western trunk lines had in 1924 a slightly higher traffic density than did the strictly southwestern lines, the ton-miles of revenue freight per mile of road being 1,094,493 as compared with 934,583. The respondent western trunk lines, excluding the Atchison, Topeka & Santa Fe; Chicago, Rock Island & Pacific; and Missouri Pacific in 1925 had 1,335,704 ton miles per mile of road, while the respondent southwestern lines, including those above named, had 1,065,663, the former figure being about [fol. 1619] 25 per cent greater than the latter. These data, however, do not represent the traffic density in either territory, but the density for the carriers serving those territories, regardless of whether or not their lines extend into other territories where the traffic density is generally much lighter.

We are concerned with traffic density mainly to determine the conditions in the two territories and not merely the conditions on all the lines of the carriers serving the two territories. It therefore seems appropriate to examine the densities according to geographical boundaries, rather than according to individual carriers. The following table shows the traffic density for each of the two territories based on data for the years 1922, 1923, and 1924 of all class I carriers in the western district which serve the two territories:

Years	Ton-miles per miles of line
Western trunk line states:[1]	
1922	1,163,494
1923	1,331,339
1924	1,253,399
Total or average	1,249,411
Southwestern states:	
1922	704,544
1923	809,927
1924	892,086
Total or average	802,186

[1]The figures include those for the St. Louis-Kansas City line of the Chicago, Rock Island & Pacific, although geographically the line is located in the Southwest as described for the purposes of this proceeding.

As may be seen, traffic density was over 50 per cent greater in western trunk line territory than in the Southwest.

The above data gives equal weight to the traffic density in each state. As a matter of fact the densities vary widely. In this connection the following table is enlightening. It shows the density for the year 1924 in each state embraced in the two territories, based on data of all class I carriers serving those states:

[fol. 1620] Western trunk line states:

Illinois	2,540,883
Iowa	972,721
Michigan (upper peninsula)	703,893
Minnesota	1,171,066
Missouri (on and north of C. R. I. & P.)	1,443,788
North Dakota	649,424
South Dakota	391,390
Wisconsin	1,107,780

Southwestern states:

Arkansas	1,043,253
Louisiana (west of Mississippi River)	913,058
Missouri (south of C. R. I. & P.)	1,093,265
Oklahoma	877,045
Texas	812,081

Appendix No. 1 shows similar information by states for each of the respondent carriers.

If the data are weighted according to the proportion of the traffic under consideration that moves from, to or through each state the density is seen to be much more than 50 per cent greater in western trunk line territory than in the Southwest. The traffic to and from North Dakota and South Dakota is almost negligible and apparently there are but few joint rates subject to the divisions in question. Eliminating these states from consideration it appears that the traffic density is about 70 per cent greater in western trunk line territory than in the Southwest, and if Kansas is included in the Southwest, on the theory that some of the traffic that moves via Kansas City passes through southeastern Kansas, the difference is increased to about 75 per cent. Between two-thirds and three-fourths of the traffic

moves from, to and or through Illinois. Much of this goes via East St. Louis, Cairo, Gale, or Thebes, avoiding all western trunk line territory except Illinois. That which [fol. 1621] does not move via the gateways named moves via Kansas City and through Iowa and Missouri as well as through Illinois. During the years 1922, 1923, and 1924, the traffic density in Illinois was over three times as great, and that in Illinois, Iowa and northern Missouri combined, over twice as great, as that in the Southwest. The following table, which may be considered in connection with traffic in general moving between Fort Worth, Tex., on the one hand, and Chicago, Ill., Des Moines, Iowa, and Minneapolis, Minn., on the other, via Kansas City shows for the years 1923 and 1924, combined, the average densities weighted according to the distances traversed in each state on several representative systems and also shows the percentage by which the densities on the western trunk lines exceeded those on the southwestern lines:

[fol. 1622]

Between	And	East and north	West and south	Ton-miles per mile of road: North	Ton-miles per mile of road: South	Ratio of average density east of Kansas City to that west thereof
Chicago, Ill.....	Ft. Worth, Tex..	C. & A.....	Santa Fe System.....	2,119,055	954,600	222.0 per cent
Chicago, "	Ft. Worth, " ..	C. G. W.....	" " "	1,755,203	954,600	183.9 " "
Chicago, "	Ft. Worth, " ..	C., M. & St. P.....	" " "	1,841,482	954,600	192.9 " "
Chicago, "	Ft. Worth, " ..	C. & N. W.-C. G. W... (via Marshalltown)	" " "	1,620,553	954,600	169.8 " "
Total				7,336,293	3,818,400	
Average						192.1 " "
Des Moines, Iowa.	Ft. Worth, " ..	C. G. W.....	" " "	1,382,134	954,600	144.8 " "
Minneapolis, Minn.	Ft. Worth, " ..	C. G. W.....	" " "	1,190,170	954,600	124.7 " "

[fol. 1623] Similar data for traffic moving via East St. Louis from, to or through Illinois would be still more favorable to defendants for the reason that the hauls north of that gateway are almost wholly in Illinois.

There are no definite figures available but indications are that traffic density in the Southwest has increased in much greater proportion during the past 30 years than has that in western trunk line territory. The increase has been particularly marked in recent years. The total of average ton-miles per mile of line for all southwestern lines, respondent herein, including the Atchison, Topeka & Santa Fe and Chicago, Rock Island & Pacific, in 1922 was 827,269, while that in 1925 was 1,065,663, an increase of 238,394. The total or average for all western trunk line respondents, excluding the two carriers above mentioned, in 1922 was 1,243,622 and that in 1925 was 1,335,704, an increase of only 92,082. If the southwest continues its greater ratio of increase for a few more years the traffic densities may become substantially equal.

The physical characteristics of the two territories are quite similar. The terrain in both is generally flat or rolling. The most broken country is that in the Ozark regions of southern Missouri and northwestern Arkansas. The Southwest is the more subject to floods, washouts and other incidents of wet weather, but western trunk line territory suffers the handicaps of more severe winters. Upon the whole, there is no great difference in operating conditions, except as results from the greater traffic density in western trunk line territory.

The table below shows the freight operating expenses per million ton-miles for three years:

[fol. 1624]

	All class I carriers							
	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in southwestern group only		Strictly Western trunk lines	Strictly Southwestern lines
	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines		
1922					$8,519	$10,923		
1923	$8,700	$10,370	$8,310	$10,430	8,262	10,330		
1924	8,380	9,469	8,070	9,430	7,966	9,405	$8,396	$9,688
Average	8,540	9,915	8,190	9,930	8,259	10,219	8,396	9,688

These figures indicate that it costs from 15 to 20 per cent more per ton to haul freight in the Southwest than in western trunk line territory. We have previously seen that there were no great differences in the length of the average hauls.

From an expense standpoint the carriers are hauling cars rather than tons. The western trunk lines handled about 1.5 more tons per car than did the southwestern lines, a difference of about 6 per cent.

In considering the relative costs we should remember that the expenses of the western trunk lines in the Chicago and St. Louis districts are heavy and that they are incurred on a large proportion of the traffic moving from, to and through those district-; also that the average hauls of the western trunk lines are considerably shorter than those of the southwestern lines and perhaps justify greater earnings per ton mile than if the hauls were substantially equal in both territories. On the other hand we should not forget that the southwestern lines incur heavy expenses in the St. Louis district and that as a whole, as distinguished from respondents only, they are terminal carriers with respect to practically all the traffic and thus have the expenses incident to originating and delivering it, while the western trunk lines avoid this burden on a large proportion of the traffic.

[fol. 1625] Deducting the average freight operating expenses from the average freight revenues as above shown, we have the following net freight earnings per million ton-miles:

	All class I carriers							
	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in southwestern group only			
	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Strictly Western trunk lines	Strictly Southwestern lines
Average	$2,755	$3,545	$2,565	$3,560	$2,111	$3,121	$1,954	$3,822

The net railway operating incomes per mile of road for the 7 years from 1916 to 1925, inclusive, but exclusive of the period of Federal control, appear below:

Year	All class I carriers						Strictly Western trunk lines	Strictly Southwestern lines
	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in southwestern group only			
	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines		
1916	$3,466	$2,761	$3,329	$2,108	.....	.....	.....	.....
1917	3,055	2,994	2,869	2,705	.....	.....	.....	.....
1921	2,024	2,518	1,450	1,943	.....	.....	.....	.....
1922	2,385	2,241	2,180	1,881	$2,120	$2,330	.....	.....
1923	2,702	2,554	2,495	2,189	2,427	2,630	.....	.....
1924	2,634	2,970	2,419	2,825	2,404	3,064	$1,486	$3,199
1925 x	2,878	3,096	2,609	2,816	2,591	3,261	.....	.....
Average	2,734	2,721	2,478	2,352	2,386	2,841	1,486	3,199

x Estimated on basis of considering one-eleventh of the net railway operating income for the eleven months ended November 30, as representative of that for December.

[fol. 1626] The following table shows for the seven years above mentioned the operating ratios, those for all traffic appearing in the upper part and those for freight below.

Years	All class I carriers							
	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in southwestern group only		Strictly Western trunk lines	Strictly Southwestern lines
	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines		
1916	65 03	67 74	65 70	70 67				
1917	70 00	67 22	71 08	67 33				
1921	81 71	78 17	84 55	80 61				
1922	78 94	77 88	79 98	79 10	80 37	77 89		
1923	78 48	77 33	79 68	78 78	80 07	77 39		
1924	77 29	74 59	78 22	74 54	78 39	74 59	81 34	73 01
1925	75 73	73 59	76 99	74 38	77 08	73 28		
Average	76 15	74 46	77 46	75 68	79 23	75 79	81 34	73 01
1922					78 65	76 66		
1923	76 96	75 96	77 52	76 42	78 62	76 75		
1924	74 28	71 35	74 88	70 74	75 65	72 10	79 85	70 36
Average	75 66	73 60	76 25	73 47	77 64	75 17	79 85	70 36

The so-called book values per mile of line, averaged for the 7 years referred to, were as follows:

All class I carriers							
Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in southwestern group only			
Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Strictly Western trunk lines	Strictly Southwestern lines
$68,720	$68,214	$67,960	$59,502	$71,361x	$69,770x	$66,542#	$66,513#

x As of January 1, 1925, and exclusive of data for K. O. & G. of Texas and H. & S.
For 1924, only.

[fol. 1627] It may be noted in this connection that in Revenues in Western District, 113 I. C. C. 1, 17, we said:

It is evident that the book values of the southwestern region are on a much less conservative basis than are those of the central western and northwestern regions, and that book value can not furnish a fair basis on which to compute the relative rates of return in these three regions.

Doubt exists, however, whether these comments may fairly be used against defendant here.

The rates of return in per cents on the above values for the years mentioned were:

	All class I carriers							
	Including Santa Fe and Rock Island in both groups		Excluding Santa Fe and Rock Island from both groups		Excepting carriers not respondents and including Santa Fe, Rock Island and Missouri Pacific in southwestern group only		Strictly Western trunk lines	Strictly Southwestern lines
	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines	Western trunk lines	Southwestern lines		
1916	5 74	4 82	5 57	4 03				
1917	4 94	5 19	4 68	4 92				
1921	2 96	3 98	2 14	3 25				
1922	3 42	3 51	3 16	3 12	3 20	3 60		
1923	3 73	3 87	3 47	3 53	3 58	4 01		
1924	3 55	4 36	3 31	4 44	3 41	4 54	2 23	4 81
1925	3 90	4 55	3 59	4 43	3 63	4 67		
Average	3 98	4 30	3 65	3 95	3 45	4 21	2 23	4 81

If we select the carriers that would be most benefitted and those that would be most injured by the readjustment sought, or in other words, those that perform most of the transportation, namely the principal Chicago-St. Louis and Chicago-Kansas City lines, on the one hand, and the prominent southwestern lines on the other, the disparity between the financial strength of the two groups, as judged by the rates of return, is rather substantial. The table below shows the situation.

[fol. 1628]

	Rate of return			
	1922	1923	1924	1925
Western Trunk Lines:				
Chicago & Alton	1.05	3.59	2.86	2.87
C. & E. I.	3.03	3.82	1.62	2.37
C., B. & Q.	4.52	4.29	4.80	4.60
C. G. W.	.19	1.54	1.59	1.48
C., M. & St. P.	1.90	2.81	2.57	2.27
Illinois Central	5.92	5.17	4.76	4.76
Wabash	1.77	3.84	3.85	4.84
Southwestern Lines:				
A., T. & S. F.	4.61	5.17	4.63	5.16
G. C. & S. F.	6.05	5.67	9.04	7.55
H. & T. C.	4.30	4.44	5.28	4.33
H. E. & W. T.	2.26	1.75	1.91	7.21
I. G. N.	2.87	4.98	5.63	4.52
K. C. M. & O.	Deficit	.22	Deficit	.24
K. C. M. & O. of Tex.	Deficit	Deficit	2.41	.47
K. C. S.	2.88	2.60	2.85	3.49
M. K. T.	4.72	3.78	4.29	4.96
M. K. T. of Tex.	1.63	1.56	5.03	3.28
Mo. Pac.	2.09	2.21	3.81	4.14
St. L. S. F.	3.99	4.72	5.05	5.23
St. L. S. W.	7.03	7.44	4.97	4.81
St. L. S. W. of Tex.	Deficit	Deficit	1.33	1.46
Texas & Pacific	2.72	3.84	4.15	4.11

Consideration of groups or averages, however, is often misleading. The revenue which a mileage prorate would transfer to the western trunk lines would go to the Chicago, Burlington & Quincy, Illinois Central and Wabash perhaps as much as it would to the weaker lines, namely the Chicago & Alton, Chicago & Eastern Illinois, Chicago Great Western and Chicago, Milwaukee & St. Paul. This situation argues against a change in divisions for financial reasons. Transfusion of revenue should be undertaken for strengthening weak carriers only in extreme cases and only as a last resort.

No such convincing showing has been made as would justify affirmative action on the part of this commission with respect to the divisions in the aggregate, but there is much reason to believe that a constructive revision of individual divisions by the carriers interested would be warranted.

[fol. 1629] APPENDIX No. 1

Constructive Mileage Represented by Division of Joint Revenue Accruing to Southwestern Lines on Traffic Moving in June, 1924

Via Kansas City

To or from	Revenue per ton		Revenue per ton-mile, in mills		Average haul, miles		Equated mileage,	Constructive mileage for each mile of service
	W.T.L.	S.W.L.	W.T.L.	S.W.L.	W.T.L.	S.W.L.	S.W.L.	
Missouri:								
Lumber	$2.85	$4.20	9.56	12.60	299	334	439	1.31
Other Carload Freight	5.16	5.03	13.56	31.01	381	162	371	2.29
Total	4.98	4.97	13.30	28.19	374	176	374	2.13
Arkansas:								
Lumber	3.13	4.42	7.90	7.24	397	611	559	.91
Other Carload Freight	5.51	9.24	13.27	22.83	415	405	696	1.72
Total	3.97	6.13	9.86	11.39	403	538	622	1.16
Louisiana:								
Lumber	2.92	4.57	7.74	6.02	378	759	590	.78
Other Carload Freight	4.57	7.91	8.86	10.42	516	759	893	1.18
Total	3.51	5.75	8.22	7.58	427	759	700	.92
Oklahoma:								
Oil (Group A)	4.35	3.10	8.79	10.68	496	290	353	1.22
Oil (Group B)	4.22	3.33	8.57	10.10	493	330	389	1.18
Other Carload Freight	4.16	7.65	9.41	23.19	443	330	813	2.46
Total	4.24	3.74	8.68	11.55	488	324	431	1.33

[fol. 1630]

North East Texas:								
Lumber	$2.92	4.94	11.15	9.24	262	535	443	.83
Oil	2.51	5.10	5.82	8.92	431	572	876	1.53
Live Stock	4.11	8.70	8.72	16.86	471	516	998	1.93
Other Carload Freight	5.04	12.53	10.67	22.42	472	559	1,174	2.10
Total	3.44	7.72	7.85	13.70	438	564	984	1.74
Remainder of Texas Common Points:								
Lumber	2.93	4.58	6.69	5.77	437	794	685	.86
Oil	2.81	5.52	5.80	7.32	485	754	952	1.26
Live Stock	3.98	10.47	8.25	14.93	483	702	1,269	1.81
Other Carload Freight	4.49	11.05	10.08	13.24	446	835	1,096	1.31
Total	3.74	8.32	8.23	10.35	454	804	1,011	1.26
Texas Common Points:								
Lumber	2.93	4.67	7.42	6.39	394	731	629	.86
Oil	2.58	5.20	5.81	8.44	445	617	895	1.45
Live Stock	4.08	9.18	8.59	16.21	475	566	1,069	1.89
Other Carload Freight	7.74	11.73	10.36	16.54	458	709	1,132	1.60
Total	3.57	7.98	8.02	11.96	445	667	995	1.49
Southwestern Territory:								
Lumber	2.95	4.58	7.66	6.45	386	711	598	.84
Oil	4.01	3.56	8.25	9.77	486	364	432	1.19
Live Stock	4.08	9.18	8.59	16.21	475	566	1,069	1.89
Other Carload Freight	4.60	9.32	10.30	18.10	447	515	905	1.76
Total	4.07	4.86	8.63	11.63	472	418	563	1.35

APPENDIX No. 1—Continued

To or from	Revenue per ton		Revenue per ton-mile, in mills		Average haul, miles		Equated mileage, S.W.L.	Constructive mileage for each mile of service
	W.T.L.	S.W.L.	W.T.L.	S.W.L.	W.T.L.	S.W.L.		
[fol. 1631]	Via East St. Louis							
Missouri:								
Lumber	$2.46	$2.98	8.32	15.06	296	198	358	1.81
Other Carload Freight:								
Eastern Missouri	1.98	3.06	9.61	18.22	206	168	318	1.89
Western Missouri	2.84	4.68	12.89	16.95	221	276	363	1.32
Total	2.43	3.43	9.59	16.35	254	210	358	1.70
Arkansas:								
Lumber	2.40	4.57	7.99	10.83	301	422	572	1.36
Oil	2.24	3.77	8.90	7.44	253	507	424	.84
Other Carload Freight	3.64	7.73	12.39	18.55	295	417	624	1.50
Total	2.49	4.67	8.73	10.43	286	448	535	1.19
Louisiana:								
Lumber	2.47	5.53	8.06	8.54	307	648	686	1.06
Oil	.98	4.20	13.41	6.97	74	604	313	.52
Other Carload Freight	3.09	7.73	10.80	11.14	287	695	716	1.03
Total	2.37	5.85	9.09	8.97	260	652	644	.99
Oklahoma:								
Oil (Group A)	2.18	4.61	8.72	9.20	251	502	529	1.05
Oil (Group B)	2.35	4.40	8.16	8.66	288	509	539	1.06
Other Carload Freight	1.84	5.50	8.26	12.14	224	453	666	1.47
Total	2.16	4.81	8.21	9.85	264	489	586	1.20

(fol. 1632)

North East Texas:								
Lumber	$3.48	$8.10	9.03	12.77	386	634	897	1.41
Oil	1.77	5.42	5.89	6.53	300	830	920	1.11
Other Carload Freight	4.40	15.85	14.84	20.97	296	756	1,068	1.41
Total	2.97	9.77	9.66	12.50	307	782	1,011	1.29
Remainder of Texas Common Points:								
Lumber	2.36	6.67	8.02	8.38	295	797	832	1.04
Oil	1.52	6.19	5.44	7.26	280	853	1,138	1.33
Live Stock	2.27	9.09	8.82	12.93	258	703	1,031	1.47
Other Carload Freight	3.69	13.86	12.78	14.79	289	937	1,085	1.16
Total	2.64	9.07	9.13	10.58	289	857	993	1.16
Texas Common Points:								
Lumber	2.47	6.81	8.15	8.73	304	780	836	1.07
Oil	1.65	5.78	5.69	6.88	291	841	1,016	1.21
Live Stock	2.27	9.09	8.82	12.93	258	703	1,031	1.47
Other Carload Freight	3.94	14.56	13.52	16.67	291	874	1,077	1.23
Total	2.75	9.29	9.31	11.16	295	833	998	1.20
Southwestern Territory:								
Lumber	2.44	4.77	8.07	10.05	302	475	591	1.24
Oil	2.07	4.33	8.23	7.69	252	563	526	.93
Live Stock	2.27	9.09	8.82	12.93	258	703	1,031	1.47
Other Carload Freight	2.86	7.41	11.23	14.79	255	501	660	1.32
Total	2.44	5.34	8.89	10.50	274	508	601	1.18

APPENDIX No. 1—Continued

[fol. 1633]

Via Cairo, Gale, or Thebes

To or from	Revenue per ton		Revenue per ton-mile, in mills		Average haul, miles		Equated mileage, S.W.L.	Constructive mileage for each mile of service
	W.T.L.	S.W.L.	W.T.L.	S.W.L.	W.T.L.	S.W.L.		
Missouri:								
Lumber	$2.18	$1.79	9.92	26.30	220	68	180	2.65
Other Carload Freight	2.77	2.21	11.38	71.66	244	31	194	6.26
Total	2.48	2.00	10.68	40.06	232	50	187	3.74
Arkansas:								
Lumber	2.72	3.52	9.99	13.31	273	265	352	1.33
Oil	2.27	4.78	32.52	12.28	70	390	147	.38
Other Carload Freight	5.20	6.99	11.45	29.65	454	236	610	2.58
Total	3.24	4.28	10.55	16.39	307	261	406	1.56
Louisiana:								
Lumber	2.96	4.65	9.14	8.64	325	539	509	.94
Oil	2.87	4.31	7.61	8.67	378	498	566	1.14
Other Carload Freight	7.29	10.35	16.71	19.09	437	543	619	1.14
Total	3.39	5.10	9.31	9.83	364	518	548	1.06
Oklahoma:								
Oil (Group B)	2.30	4.89	28.79	6.54	80	749	170	.23
Texas:								
Lumber	3.14	4.66	9.22	6.29	341	741	505	.68
Southwestern Territory:								
Lumber	2.61	3.18	9.80	12.26	266	259	324	1.25
Oil	2.79	4.39	8.38	8.64	333	509	524	1.03
Other Carload Freight	3.83	4.25	11.94	32.68	321	130	356	2.74
Total	2.98	3.63	10.29	14.42	290	252	353	1.40

(Here follows Appendix No. 2, side folio 1634)

APPENDIX No. 2

Ton-miles per Mile of Line by States, Year 1924

	Michigan, Upper Peninsula	Wisconsin	Minnesota	Illinois	Missouri	Iow
Western Trunk Lines:						
Atchison, Topeka & Santa Fe (System) (a)	.....	.....	.....	3,044,053	2,721,898	4,10
Chicago & Alton	.....	.....	.....	2,161,493	1,846,565	...
Chicago & Eastern Illinois	.....	.....	.....	2,559,381	.....	...
Chicago & Northwestern	774,338	1,022,850	539,320	2,351,002	.....	1,23
Chicago, Burlington & Quincy	.....	2,989,154	1,629,291	2,638,089	1,574,455	75
Chicago Great Western	.....	.....	675,556	2,691,498	1,478,831	1,29
Chicago, Milwaukee & St. Paul	1,024,358	1,042,436	1,089,024	2,304,422	2,092,790	1,05
Chicago, Rock Island & Pacific (b)	.....	.....	696,626	3,319,582	1,240,884	74
Chicago, St. Paul, Mpls. & Omaha	.....	1,184,730	1,024,395	.....	.....	84
Illinois Central	.....	128,830	466,501	3,213,441	.....	1,30
Minneapolis & St. Louis	.....	.....	928,818	1,702,128	.....	72
Minneapolis, St. Paul & Sault Ste. Marie	592,596	1,055,223	893,278	2,344,673	.....	...
Quincy, Omaha & Kansas City	.....	.....	.....	51,498	160,537	...
Wabash	.....	.....	.....	2,231,026	1,492,653	6
Southwestern Lines:						
Atchison, Topeka & Santa Fe (System) (a)	.....	.....	.....	3,044,053	2,721,898	4,10
Chicago, Rock Island & Pacific (b)	.....	.....	696,626	3,319,582	1,240,884	74
Fort Worth & Denver City	.....	.....	.....	.....	.....	...
Gulf Coast Lines (c)	.....	.....	.....	.....	.....	...
International & Great Northern	.....	.....	.....	.....	.....	...
Kansas City, Mexico & Orient (System) (d)	.....	.....	.....	.....	.....	...
Kansas City Southern	.....	.....	.....	.....	2,205,049	...
Kansas, Oklahoma & Gulf (e)	.....	.....	.....	.....	.....	...
Louisiana Ry. & Navigation Co	.....	.....	.....	.....	.....	...
Louisiana Ry. & Navigation Co. of Texas	.....	.....	.....	.....	.....	...
Missouri, Kansas & Texas (f)	.....	.....	.....	.....	1,283,943	...
Missouri Pacific	.....	.....	.....	3,487,938	1,227,160	...
St. Louis-San Francisco (System) (g)	.....	.....	.....	.....	965,255	...
St. Louis Southwestern	.....	.....	.....	1,387,873	928,653	...
St. Louis Southwestern of Texas	.....	.....	.....	.....	.....	...
San Antonio & Aransas Pass	.....	.....	.....	.....	.....	...
Southern Pacific-Texas Lines (h)	.....	.....	.....	.....	.....	...
Southern Pacific-Louisiana Lines (i)	.....	.....	.....	.....	.....	...
Texas and Fort Smith	.....	.....	.....	.....	.....	...
Texas & Pacific	.....	.....	.....	.....	.....	...
Vicksburg, Shreveport & Pacific	.....	.....	.....	.....	.....	...

(a) Includes A. T. & S. F., G. C. & S. F., Panhandle & S. Fe. (b) Includes C. R. I. & G. (c) Includes Beaumont, Sour Lake & W
K. O. & G. of Texas. (f) Includes M. K. & T. of Texas. (g) Includes St. L.-S. F. of Texas. (h) Includes G. H. & S. A., H. E. & W

APPENDIX No. 2

Ton-miles per Mile of Line by States, Year 1924

Minnesota	Illinois	Missouri	Iowa	Kansas	Oklahoma	Arkansas	Louisiana	Texas
.....	3,044,053	2,721,898	4,102,937	975,224	967,470	.....	420,258	1,082,456
.....	2,161,493	1,846,565	.....	.....	.....	.....	.....	.....
.....	2,559,381	.....	.....	.....	.....	.....	.....	.....
539,320	2,351,002	.....	1,237,637	.....	.....	.....	.....	.....
1,629,291	2,638,089	1,574,455	758,487	149,614	.....	.....	.....	.....
675,556	2,691,498	1,478,831	1,291,653	1,468,709	.....	.....	.....	.....
1,089,024	2,304,422	2,092,790	1,055,953	.....	.....	.....	.....	.....
696,626	3,319,582	1,240,884	744,176	1,468,118	745,313	849,270	584,688	756,232
1,024,395	.....	.....	841,062	.....	.....	.....	.....	.....
466,501	3,213,441	.....	1,302,447	.....	.....	.....	.....	.....
928,818	1,702,128	.....	721,756	.....	.....	.....	.....	.....
893,278	2,344,673	.....	.....	.....	.....	.....	.....	.....
.....	51,498	160,537	.....	.....	.....	.....	.....	.....
.....	2,231,026	1,492,653	652,316					
.....	3,044,053	2,721,898	4,102,937	975,224	967,470	.....	420,258	1,082,456
696,626	3,319,582	1,240,884	744,176	1,468,118	745,313	849,270	584,688	756,232
.....	.....	.....	.....	.....	.....	.....	.....	1,236,029
.....	.....	.....	.....	.....	.....	.....	1,289,512	815,160
.....	.....	.....	.....	.....	.....	.....	.....	622,651
.....	.....	.....	.....	773,219	770,381	.....	.....	292,642
.....	.....	2,205,049	.....	1,552,012	1,794,276	1,868,517	1,493,373	.....
.....	.....	.....	.....	164,400	448,525	.....	.....	482,542
.....	.....	.....	.....	.....	.....	.....	802,505	.....
.....	.....	.....	.....	.....	.....	.....	385,289	403,265
.....	.....	1,283,943	.....	1,159,043	918,113	.....	.....	810,900
.....	3,487,938	1,227,160	.....	831,993	2,533,985	1,347,337	1,013,517	.....
.....	.....	965,255	.....	1,178,595	856,480	642,227	.....	327,869
.....	1,387,873	928,653	.....	.....	.....	1,117,254	431,440	.....
.....	.....	.....	.....	.....	.....	.....	.....	440,439
.....	.....	.....	.....	.....	.....	.....	.....	380,447
.....	.....	.....	.....	.....	.....	.....	.....	1,043,706
.....	.....	.....	.....	.....	.....	.....	1,124,969	.....
.....	.....	.....	.....	.....	.....	.....	.....	1,754,088
.....	.....	.....	.....	.....	.....	139,287	596,141	1,007,189
.....	.....	.....	.....	.....	.....	.....	1,024,133	.....

R. I. & G. (c) Includes Beaumont, Sour Lake & West. St. L. B. & M., and N. O. T. & M. (d) Includes K. C. M. & O. of Texas. (e) Includes F. of Texas. (h) Includes G. H. & S. A., H. E. & W. T., H. & T. C., T. & N. O. (i) Includes M. L. & T. and La. West.

[fol. 1635] OFFERS IN EVIDENCE

The petitioners, through their counsel, offered in evidence the report of the Interstate Commerce Commission in the said proceeding, which was published December 10, 1928, and the same was received in evidence marked for identification as Petitioners' Exhibit 5, and is in words and figures as follows:

(The said exhibit is the same exhibit which is attached to the petitioners' amended petition, marked Appendix 3, and is therefore not reproduced here.)

The petitioners also, through their counsel, offered in evidence the petition for rehearing which was filed by petitioners in the said proceeding, and the same was received in evidence, marked Petitioners' Exhibit 6 E. F. M. and is sent up as an original exhibit, with leave to either party to refer thereto.

[fol. 1636] Petitioners, through their counsel, also offered in evidence (Tr. 17) the report on reconsideration dated June 10, 1929, together with the order establishing the basis of divisions herein, and the same was received in evidence marked as Petitioners' Exhibit 7 E. F. M., and is in words and figures as follows, to-wit:

(The said report on reconsideration and the said order are attached to the amended petition herein as Appendix 4, and the same are therefore not reproduced here.)

Petitioners, through their counsel, also offered in evidence an order made by the Interstate Commerce Commission on the 25th day of July, 1929, postponing, at the request of the Court, the effective date of the said order fixing the basis of divisions, from August 1, 1929, to October 1, 1929, and correcting an error in the previous order by omitting the Texarkana and Fort Smith Railway Company from the list of respondents in the proceeding. The said order was received in evidence marked Petitioners Exhibit 8 E. F. M., and is in words and figures as follows, to-wit:

PETITIONERS' EXHIBIT 8

AT A GENERAL SESSION OF THE INTERSTATE COMMERCE COMMISSION, HELD AT ITS OFFICE, IN WASHINGTON, D. C., ON THE 25TH DAY OF JULY, A. D. 1929

No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Order

Good cause appearing therefor:

It is ordered, That the second paragraph of the commission's order of June 10, 1929, in this proceeding be, and it is hereby, amended to read as follows:

It further appearing, That respondents herein which par- [fol. 1637] ticipate in joint rates the divisions of which are prescribed by this order are The Atchison, Topeka & Santa Fe Railway Company; The Beaumont, Sour Lake & Western Railway Company; The Chicago & Alton Railroad Compand and W. W. Wheelock and W. G. Bierd, Receivers; Chicago & Eastern Illinois Railway Company; Chicago & North Western Railway Company; Chicago, Burlington & Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, Milwaukee, St. Paul & Pacific Railroad Company; The Chicago, Rock Island & Gulf Railway Company; The Chicago, Rock Island & Pacific Railway Company; Chicago, St. Paul, Minneapolis & Omaha Railway Company; The Fort Worth & Denver City Railway Company; The Galveston, Harrisburg & San Antonio Railway Company; The Gulf, Colorado & Santa Fe Railway Company; Houston & Shreveport Railroad Company; Houston & Texas Central Railroad Company; The Houston East & West Texas Railway Company; Illinois Central Railroad Company; International Great Northern Railroad Company; The Kansas City, Mexico & Orient Railway Company; Kansas City, Mexico & Orient Railway Company of Texas; The Kansas City Southern Railway Company; Kansas, Oklahoma & Gulf Railway Company; Louisiana Railway & Navigation Company; Louisiana Western Railroad

Company; The Minneapolis & St. Louis Railroad Company and W. H. Bremner, Receiver; Minneapolis, St. Paul and Sault Ste. Marie Railway Company; Missouri-Kansas-Texas Railroad Company; Missouri-Kansas-Texas Railroad Company of Texas; Missouri Pacific Railroad Company; Morgan's Louisiana & Texas Railroad & Steamship Company; New Orleans, Texas & Mexico Railway Company; Panhandle & Santa Fe Railway Company; Quincy, Omaha & Kansas City Railroad Company; The St. Louis, Brownsville & Mexico Railway Company; St. Louis-San Francisco Railway Company; St. Louis, San Francisco & Texas Railway Company; San Antonio & Aransas Pass Railway Com-[fol. 1638] pany· St. Louis Southwestern Railway Company; St. Louis Southwestern Railway Company of Texas; Texas & New Orleans Railroad Company; The Texas & Pacific Railway Company; Vicksburg, Shreveport & Pacific Railway Company; and Wabash Railway Company:

It is further ordered, That the effective date of said order be, and it is hereby, postponed from August 1, 1929, to October 1, 1929.

And it is further ordered, That in all other respects said order shall continue in force until the further order of the commission.

By the commission.

George B. McGinty, Secretary. (Seal.)

Petitioners, through their counsel, also offered in evidence as Petitioners' Exhibit 9 E. F. M. the proposed report filed by the Examiners of the Commission in Docket No. 17000, being a proceeding entitled "Western Trunk-Line Class Rates", in which the Examiners of the Commission recommended the establishment of a certain level of class rates in the Western Trunk Line territory. Mr. Reidy, counsel for the Interstate Commerce Commission, objected to the said report being received in evidence, on the ground that it was of no evidentiary value; that it was simply the proposed report of an Examiner in a case which had not been acted upon and which had no connection whatever with the case which was being tried. Mr. Towner, counsel for the intervening defendants, made the same objections, and objected also upon the ground that the said

[fol. 1639] intervening defendants offered in evidence the rates which were proposed by the Western Trunk Lines, and that the introduction of the same was objected to by the Southwestern Lines and the objection sustained. He objected also on the ground that the evidence was incompetent, irrelevant and immaterial, having nothing to do with the issues in the case. Mr. Collins, Counsel for the United States, joined in that objection. The objection to the admission of the said Exhibit 9 in evidence was sustained by the court, to which ruling and action of the Court in excluding the said Exhibit 9 the petitioners at the time duly excepted and still except (Tr. 19-24).

Witness S. H. Boxe was produced and sworn on the part of the petitioners, and thereupon the following objection was made:

"Mr. Reidy: If your Honors please, may I ask Mr. Moore if the testimony he expects to introduce was introduced before the Interstate Commerce Commission?

"Mr. Moore: It was not Mr. Reidy, but I would like to explain just what this testimony is."

Mr. Reidy objected on the ground that the order of the Commission should be declared valid or invalid upon the testimony before the Commission and not upon any new testimony before the Court.

Mr. Moore stated that after the Commission published its original report and prescribed the new formula for the division of the revenues from joint rates involved in this proceeding, the Southwestern railroads made a test of the application of that formula to determine what the effect of it would be; that they applied the formula to the revenue for the month of September, 1928, and showed the results of that test in the petition for rehearing, and called the [fol. 1640] Commissioner's attention to the fact that the formula which it prescribed had never been introduced in evidence nor brought to their knowledge before the hearing closed, and that the first time they had any knowledge of the formula which the Commission proposed to put into effect was when its report was filed. He further stated that the Commission, in its original report, had taken revenues of the Class I carriers in the Western Trunk Line

territory and in the Southwestern territory for the years 1923 and 1924, determined the amount of their revenues, their expenses, including taxes, and the additional amount which those carriers in the two groups would need to yield a return of 5¾% upon their aggregate investments, and that the Commission then took that constructive revenue, as they called it, assigned a part of it to the freight business, divided that constructive freight revenue by the ton miles handled by these two groups of carriers during that month, and determined therefrom how much revenue per ton per mile the Western Trunk Line carriers that were in this proceeding and the Southwestern carriers that were in this proceeding would require to yield them a return of 5¾% on their aggregated investments, and from that they determined that the Southwestern carriers would require 20% approximately more revenue per ton per mile on each ton of freight handled than would the Western Trunk Lines; that the Southwestern Lines in their petition for rehearing showed that they had made a test of that formula, and instead of yielding them 20% more revenue for the same service than was received by the Western Trunk Lines the figures showed that they only received five and a fraction per cent more. He further stated that the Commission denied the petition for rehearing, but modified its formula to some extent, and that the petitioners wished to put in [fol. 1641] evidence a study of the modified formula applied to the same revenue, that is, the revenue for the month of September, 1928, for the purpose of showing that even though modified, the order does not yield to the Southwestern carriers the 20% more revenue to which the Commission found that they would be entitled, and to show by how much the said order falls short of that amount. He further stated that that was not evidence that could have been introduced before the Commission, and that the evidence is for the purpose of showing the effect of the Commission's order (Tr. 24-27). He further stated that this was evidence which the petitioners offered to the Commission and which it was contended that the Commission wrongfully refused to receive because the Commission had made no findings whatever that their formula would produce the amount of revenue which they found that the Southwestern carriers were entitled to, and because the petitioners had

never had any opportunity to put in evidence before the Commission, or to go into the question; that the Commission in its modified report did make some comments on the study which petitioners had showed in their petition for rehearing, but did not attempt in any way to answer petitioners' contention that after the Commission had found that petitioners were entitled to a certain amount of revenue as compared with the Western Trunk Lines out of their joint business, the formula did not give that amount of revenue to petitioners. He further stated that petitioners' study of the effect of the Commission's formula upon the revenues for the month of September, 1928, under the formula prescribed in the Commission's original report, was set forth in the petition for rehearing; that petitioners now wanted to show that even the modified order did not cure that defect; that petitioners contended that the evidence was admissible under the allegation that the order of the Commission deprived them of their property without [fol. 1642] due process of law, and that the same was confiscatory, and also upon the ground that petitioners had the right to show the effect of the Commission's order, since it was evidence that could not have been introduced before the Commission.

Mr. Collins, counsel for the United States, objected that the Court could not consider such testimony because any testimony of that character must be considered and passed upon before the Commission itself; that the divisions formula was nothing but a sort of explanation of the Commission's decision, being nothing more than a mechanism or convenient method of dividing the joint rates. Mr. Towner, counsel for the intervening railroad defendants, also made the same objections; also on the ground that the Commission did consider the said study, and that the said study was hypothetical, the divisions having not yet gone into effect.

Mr. Moore further stated that petitioners contended that order which deprived them of a much larger part of the rev the Commission, after finding that the Southwestern carriers were entitled to a certain part of the revenue, made an enue; that the evidence would show that the order is not supported by the findings of the Commission, and is therefore void; that if the Commission finds that petition are

entitled to 20% more revenue than the Western Trunk Lines and then takes more than that amount from petitioners, it is taking property without due process of law, and that petitioners having made that allegation, have a right to prove it (Tr. 27-36).

Petitioners, through their counsel, stated that they offered to prove by the witness that he had prepared under his supervision a statement showing the effect of applying, to the revenues for the month of September, 1928, the formula prescribed by the Commission in the said proceeding, and that the said statement showed that under the Commission's formula the Southwestern carriers would receive only 9% [fol. 1643] more revenue per ton per mile than the Western Trunk Line carriers instead of the 17 to 22½% which the Commission found was the proper difference; that the said testimony was not presented to the Interstate Commerce Commission because it was not available until after the modified order of the Commission was handed down, but that petitioners did offer, in their petition for rehearing, similar testimony based on the original formula and the revenue from the traffic for the same month; that the Commission refused to grant a rehearing for the purpose of allowing petitioners to put that and other evidence in. The Court ruled that the testimony would be received subject to objections.

Witness Bone thereupon testified that he had a printed statement showing the result of a study of the divisions as actually settled between the Western Trunk Line respondents and the Southwestern line respondents, of the revenue on traffic for the month of September, 1928, which is affected by the Commission's order; that he had shown in that statement the amount of revenue which is actually received by the Western Trunk Line respondents and the amounts which would have been received by the Southwestern line respondents if the Commission's formula for the making of divisions had been applied to that traffic; that the said statement was prepared under his personal supervision and is correct according to the best of his knowledge and belief; that he is Assistant Auditor of Freight Receipts of the Missouri Pacific Railroad, and that all the railroads [illegible] the Southwestern region that are interested in

the said proceeding furnished him the information upon which the study is based. The said study was received in evidence marked Petitioners' Exhibit 10 E. F. M.

(Here follows table, side folio 1644)

Statement covering movement of freight traffic between points on lines in Western Trunk Line territory and points on lines in Southwestern and the line formed by the C. &. O. R. R. and N. & W. R. R. including the New England States, New York, and the lower peninsula c

Statement shows proportions for Western Trunk Lines and Southwestern Lines "as settled" and proportions for Western Trunk Lines the Matter of Divisions of Freight Rates in Western and Mountain Pacific Territories, 148 I. C. C. 457; 156 I. C. C. 94; also tons one mile a

Figures on which this statement is based cover waybills settled in accounts, month of September, 1928.

Summary	Cars	Tons	Tons one mile			
			W. T. L.	S. W. L.	Total	W. T. L
Respondent roads (See Note 1):						
All traffic except Texas differential stations	18,545	451,696	141,565,655	207,890,160	349,455,815	1,586,6
Texas differential stations	547	10,771	3,515,411	10,373,876	13,889,287	45,9
Total respondent roads	19,092	462,467	145,081,066	218,264,036	363,345,102	1,632,5
Non-respondent roads (See Note 2):						
All traffic except Texas differential stations	8,527	236,376	75,615,995	105,298,723	180,914,718	744,9
Texas differential stations	82	2,373	707,069	2,420,372	3,127,441	7,6
Total non-respondent roads	8,609	238,749	76,323,064	107,719,095	184,042,159	752,5
Grand total	27,701	701,216	221,404,130	325,983,131	547,387,261	2,385,1

NOTE (1).—Includes only traffic specifically covered by the Commission's order of June 10, 1929, as amended July 25, 1929, viz., traffic of Kansas City, St. Louis, East St. Louis, Cairo, Gale and Thebes, and traffic originating at points on Western Trunk Line Respondents an respondents and points in territory east of the Illinois-Indiana state line as described in heading, when interchanged between Western Trunk

NOTE (2).—Includes other traffic interchanged between Western Trunk Lines and Southwestern Lines via the gateways named above, tory, or vice versa; and traffic originating on non-respondent roads in Western Trunk Line territory and destined to non-respondent roads in the Illinois-Indiana state line as described in heading, when moving in connection with Western Trunk Line roads.

I. C. C. Docket 15234

stern Trunk Lines and Southwestern Lines

stern Line territory, also traffic moving through Western Trunk lines to and from territory east of Illinois-Indiana State line, on and north of the Ohio River and sula of Michigan.

Lines and Southwestern Lines based on order of Interstate Commerce Commission dated June 10, 1929, as amended July 25, 1929, in I. C. C. Docket 15234, In mile and averages thereon, and proportions based on mileage.

Revenue as settled					Revenue under I. C. C. order				Revenue—Mileage Prorate		
Dollars			Per ton per mile (mills)		Dollars		Per ton per mile (mills)		Dollars		Per ton per mile (mills)
T. L.	S. W. L.	Total	W. T. L.	S. W. L.							
86,686	3,144,280	4,730,966	11.21	15.12	1,813,809	2,917,157	12.81	14.03	1,909,388	2,821,578	13.54
45,907	176,476	222,383	13.06	17.01	61,676	160,707	17.54	15.49	49,789	172,594	16.01
32,593	3,320,756	4,953,349	11.25	15.21	1,875,485	3,077,864	12.93	14.10	1,959,177	2,994,172	13.63
44,908	1,275,613	2,020,521	9.85	12.12	800,465	1,220,056	10.59	11.58	846,824	1,173,697	11.17
7,671	25,513	33,184	10.85	10.54	9,120	24,064	12.90	9.95	7,343	25,841	10.61
52,579	1,301,126	2,053,705	9.86	12.08	809,585	1,244,120	10.61	11.55	854,167	1,199,538	11.16
85,172	4,621,882	7,007,054	10.77	14.18	2,685,070	4,321,984	12.13	13.26	2,813,344	4,193,710	12.80

affic originating on the lines of the Southwestern Line respondents and destined to points on the Western Trunk Line respondents and moving via the Gateways and destined to points on Southwestern Line Respondents when interchanged through the same gateways, and also traffic between points on Southwestern Line runk Line respondents and Southwestern respondents via gateways named above.

ove, viz., traffic originating at points on non-respondent roads in Western Trunk Line territory and destined to points on respondent roads in Southwestern terri- s in Southwestern territory, or vice versa; and also traffic between points on non-respondent roads in Southwestern territory and points in the territory east of

[fol.1645] Cross-examination:

Witness Bone testified that the document, Exhibit No. 10, had never been offered to the Interstate Commerce Commission (Tr. 36-53).

Witness W. G. BUECHNER, being produced, sworn, and examined as a witness on the part of petitioners, testified that he is Auditor of Revenues of The Kansas City Southern Railway Company, and has had eighteen or twenty years experience as an accountant; that he had made some studies of the statement which was introduced in evidence as Petitioners' Exhibit No. 10, and had prepared a statement showing "Tons One Mile, Revenue based on I. C. C. order and Revenue based on constructive ton mile prorate, also, Amount Southwestern Lines Short of Receiving 20% more Revenue per ton mile than Western Trunk Lines, on Traffic Handled in September, 1928;" that the said statement shows that petitioners would receive only 9% more revenue per ton per mile than the Western Trunk Lines if the Commission's order were applied to traffic for September, 1928; that he made the computations and the same are correct.

Petitioners, through their counsel, offered the said statement in evidence as Petitioners' Exhibit 11 E. F. M. Mr. Reidy and Mr. Towner objected on the same grounds as were before stated. The said statement was received in evidence subject to the objections, to which ruling and action of the Court the defendants, by their counsel, at the time duly excepted and still except (Tr. 54-56).

Witness Buechner testified that he had prepared a statement showing comparisons of Western Trunk Lines' and Southwestern Lines' total proportions of revenue under a mileage prorate on the basis of existing divisions and as apportioned under the Interstate Commerce Commission's order, on traffic handled during the month of September, 1928, and that that statement shows that the Southwestern [fol. 1646] Lines would receive 7.39% more revenue per ton per mile than the Western Trunk Lines, instead of 20% more.

The said statement was offered in evidence as Petitioners' Exhibit No. 12 E. F. M. The same objections were made by Mr. Reidy and Mr. Towner, and the statement was received in evidence subject to the objections, to which ruling and action of the Court the defendants, by their counsel, at the time duly excepted, and still except (Tr. 56-57).

Witness Buechner further testified that he had prepared a statement entitled "Statement derived from Figures in the Interstate Commerce Commission's Report in the Matter of Divisions, 156 I. C. C. 94, 95, 96, Showing Amounts by which the Southwestern Lines would Fall Short of Receiving 20% More Revenue per ton-mile than the Western Trunk Lines"; that the Commission in its report on reconsideration had made some computations to determine how much would be received by the Western Trunk Line group and the Southwestern group, and the witness had taken those computations and ascertained how much the Southwestern carriers would have received from the revenue of those months, deducting from the total the amount which the Commission stated would be received by the Western Trunk Line group; that the said exhibit showed that by applying the Western Trunk Line percents as set out in the Commission's report on the Illinois-Wisconsin traffic in the June, 1924, test, the Southwestern Lines would fall short $6,005.00 of earning 20% more revenue per ton per mile than the Western Trunk Lines; that by applying the 87% basis of the June, 1924, test, it shows that the Southwestern Lines would fall short $51,491.63; and that by applying the same percents to the October test on the 80% basis, the Southwestern Lines would fall short $71,067.23, and applying the 87% test, the Southwestern Lines would fall short $160,725.24, and that those figures are all for one month. [fol. 1647] The said statement was offered in evidence as Petitioners' Exhibit No. 13 E. F. M. Counsel for defendants made the same objections. The statement was received, subject to the objections, to which ruling and action of the Court the defendants, by their counsel, at the time duly excepted and still except (Tr. 58-59).

Witness Buechner further testified that as Auditor of The Kansas City Southern Railway Company he had made a study of the amount of revenue which the Commission's

formula would take from The Kansas City Southern Railway Company and transfer to the various Western Trunk Line respondents; that the said statement was correct, and showed that the Kansas City Southern would lose, through the Commission's order, for the month of September, 1928, $17,611.42, and that that amount projected over a year would amount to a loss of $211,337.04. The said statement was offered in evidence as Petitioners' Exhibit 14 E. F. M. It was received, subject to the same objections, and is in words and figures as follows, to-wit:

[fol. 1648] PETITIONER'S EXHIBIT 14

Witness: —— ——

In Equity. No. 1363

The Kansas City Southern Railway Company (Including Texarkana and Fort Smith Railway Company)

Respondent

Statement Showing Estimated Annual Increases and Decreases Which Will Accrue to the Western Trunk Line Railroads, Resulting in Corresponding Decreases or Increases in the Revenues of Our Lines Based on Application of Divisional Bases Prescribed by the I. C. C. in Their Order June 10th, 1929, Docket 15234, Western Trunk Lines Division Case, to Traffic Originating or Terminating on Respondents' Roads, Moving During Sept., 1928, and Projected to Traffic Movement for Year 1928. (See Foot Note.)

Name of railroads	Western Trunk Lines revenue	
	Month	Year
Atchison, Topeka & Santa Fe Ry Co	$147.33	$1,767.96
Baltimore & Ohio R. R. Co	2.81	33.72
Chicago & Alton R. R. Co	3,193.32	38,319.84
Chicago, Burlington & Quincy R. R. Co	1,610.21	19,322.52
Chicago, Eastern Illinois Ry. Co..6	65.56	786.72
Chicago, Great Western R. R. Co	1,295.13	15,541.56
Chicago & Illinois Midland Ry. Co	11.94	143.28
Chicago, Milwaukee, St. Paul & Pacific R. R.	3,326.06	39,912.72
Chicago Northwestern Ry. Co	175.34	2,104.08
Chicago, Rock Island & Pacific Ry. Co	3,055.36	36,664.32
Chicago, St. Paul, Minneaapolis & Omaha Ry. Co.	D. 13.79	D. 165.48
Elgin, Joliet & Eastern Ry. Co	.10	1.20
Illinois Central R. R. Co	81.19	974.28
Illinois Terminal Co	5.37	64.44
Illinois Traction Co	D. .96	D. 11.52
Litchfield & Madison Ry. Co	D. 2.12	D. 25.44
Missouri-Kansas-Texas R. R. Co	.22	2.64
Minneapolis, Northfield & Southern Ry	5.49	65.88
Missouri Pacific R. R. Co	504.56	6,054.72
Minneapolis & St. Louis R. R. Co	145.07	1,740.84
Minneaopils, St. Paul & Sault Ste. Marie Ry	115.77	1,389.24
St. Louis-San Francisco Ry. Co	8.61	103.32
Union Pacific R. R. Co	1.71	20.52
Wabash Ry. Co	3,863.35	46,360.20
Weterloo, Cedar Falls & Northern Ry. Co	13.79	165.48
Total	17,611.42	$211,337.04

D—Denotes Decrease.

NOTE.—This statement includes only changes in K. C. S.-T. & F. S. revenues; it does not include additional increases and decreases which will accrue to the Western Trunk Line Railroads from other Southwestern roads which may have participated in any of this traffic.

[fol. 1649] Witness Buechner further testified that he had made a similar computation to show how much revenue The Kansas City Southern Railway Company would lose, if as a practical matter, the Commission's formula had to be applied to the revenue from traffic originating and terminating on the non-respondent lines of those two groups as well as on the respondents lines; that the said computation, based on the traffic for the month of September, 1928, showed that The Kansas City Southern Railway Company would lose $30,106.90 during that month, and that that loss projected over a period of a year would amount to $361,-

282.80. The statement was offered in evidence as Petitioners' Exhibit No. 15 E. F. M., and was received in evidence subject to the same objections interposed to previous similar exhibits (Tr. 61).

Cross-examination.

By Mr. Reidy:

None of these exhibits have been previously presented to the Interstate Commerce Commission for its consideration. They could not have been prepared before the Commission entered its modified order (Tr. 62-63).

Witness T. A. GRAY, being produced, sworn and examined as a witness on the part of petitioners, testified that he is Auditor of Revenue for the M. K. T. Railroad, and has been in accounting work twenty-five or thirty years; that he prepared a statement showing how much revenue the Missouri-Kansas-Texas Railway Company and the Missouri-Kansas-Texas Railway Company of Texas would lose as applied to revenues on the traffic for the month of September, 1928, if those revenues as between the Missouri-Kansas-Texas Railway Company and the Western Trunk Line [fol. 1650] respondents were divided in accordance with the settlements that were made between the carriers; that the statement is correct according to the best of his knowledge and belief; that the total which the Missouri-Kansas-Texas Railway Company and the Missouri-Kansas-Texas Railway Company of Texas would lose, based on the revenues from traffic for the month of September, 1928, under the Interstate Commerce Commission's decision, would be $38,799.14; that that was the amount which the Missouri-Kansas-Texas Lines would lose as a Southwestern Lines carrier; and that they handle a little traffic between Kansas City and St. Louis where the Missouri-Kansas-Texas is a Western Trunk Line carrier, and on that traffic it would show a loss of $89.92. The said statement was offered in evidence as Petitioners' Exhibit 16 E. F. F., and was received in evidence subject to the same objections as the other exhibits, to which ruling and action of the Court the defendants, by their counsel, at the time duly excepted and still except. Said exhibit 16 is in words and figures as follows (Tr. 63-65):

(Here follows Petitioners' Exhibit 16, side folios 1651, 1652, 1653, and 1654)

[fol. 1651]

PETITIONERS'

Missouri-Kansa

Estimated Effect on M.-K.-T. Lines September, 1928, Freight Revenue After Application of Divisions as Revised on Ju

	Automobiles-Passenger via		Other carloads, first class via		Lumber via		
	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kan
					Between Western Trunk Lines Territo		
As settled	$22,712.54	$5,303.78	$312.00	.....	$1,577.16	$1,036.30	$18
Rate Prorate	18,200.87	5,014.41	226.20	.....	1,589.25	1,017.59	19
Loss	4,511.67	289.37	85.80	.....	12.09D	18.71	
Roads Benefitting from M.-K.-T. Lines' loss:							
Atchison, Topeka & Santa Fe	.....	.....	.....	.....	.....	.....	
Baltimore & Ohio	.....	.....	.....	.....	.....	13.93	
Chicago & Alton	650.97	46.27	.....	.....	2.55 D	10.90 D	
Chi., Burlington & Quincy	1,189.04	.....	85.80	.....	42.22 D	12.11 D	
Chi. & Eastern Illinois	.....	20.62	.....	.....	.....	2.76 D	
Chicago Great Western	54.43	.....	.....	.....	11.04 D	.....	
Chi. & Ill. Midland	.....	6.21	.....	.....	.....	6.27	
Chi., Milwaukee & Gary	.....	.....	.....	.....	.....	.....	
Chi., Milwau., St. P. & Pac	371.52	.....	.....	.....	23.22 D	.61 D	
Chi. & Northwestern	36.97	190.79	.....	.....	.....	21.75	
Chi., R. I. & Pacific	.....	.....	.....	.....	.....	1.49 D	
Chi., St. P. Minnepls. & Omaha	.....	.....	.....	.....	.....	1.49 D	
Cleveland, Cinci., Chi. & St. L	.....	.....	.....	.....	.....	.....	
Clinton, Davenport & Muscatine	.....	2.55	.....	.....	.....	.....	
Des Moines & Central Iowa	.....	.....	.....	.....	.....	.....	
Elgin, Joliet & Eastern	.....	.....	.....	.....	.....	.....	
Escanaba & Lake Superior	.....	.....	.....	.....	.....	.....	
Ft. Dodge, Des Moines & Southern	.....	.....	.....	.....	.....	.....	
Great Northern	.....	.....	.....	.....	.....	.....	
Illinois Central	.....	.....	.....	.....	.....	.08 D	
Illinois Terminal	.....	.....	.....	.....	.....	.....	
Indiana Harbor Belt	.....	2.40	.....	.....	.....	.....	
Litchfield & Madison	.....	10.78	.....	.....	.....	1.24 D	
Mpls., Northfield & Southern	.....	.....	.....	.....	.....	.....	
Minneapolis & St. Louis	.....	.....	.....	.....	2.75 D	.....	
Mpls., St. Pl. & Sault Ste. Marie	.....	.....	.....	.....	2.55 D	.....	
Missouri Pacific	.....	.....	.....	.....	.....	.....	
New York Central	.....	.....	.....	.....	.....	.....	
N. Y., Chicago & St. Louis	.....	.....	.....	.....	.....	.....	
Northern Pacific	.....	.....	.....	.....	.....	.....	
Pennsylvania	.....	.....	.....	.....	.....	.....	
Toledo, St. L. & Western	.....	.....	.....	.....	.....	.32 D	

ONERS' EXHIBIT 16

-Kansas-Texas Lines

on June 10th, 1929, in I. C. C. Docket 15234; Also Showing Roads Which Would Benefit by M.-K.-T. Lines' Loss of Revenue

Petroleum and its products via		Other carloads via		Less carloads via		Total via		Grand Total
Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	
Territory and Southwestern Lines Territory								
$185,010.90	$62,404.58	$137,541.30	$31,817.80	$38,100.59	$16,373.61	$385,254.49	$116,936.07	$502,190.56
190,930.38	62,259.41	116,653.60	28,716.79	31,805.72	14,520.53	359,406.02	111,528.73	470,934.75
5,919.48 D	145.17	20,887.70	3,101.01	6,294.87	1,853.08	25,848.47	5,407.34	31,255.81
611.78	.....	274.32	.....	532.59	2.40	1,418.69	2.40	1,421.09
.....	.....	.....	.....	.....	2.40 D	.....	11.53	11.53
866.33	1,170.50	6,644.35	253.38	927.94	245.93	9,107.04	1,705.18	10,812.22
99.38 D	9.14 D	1,848.40	211.09	995.29	82.89	3,976.93	272.73	4,249.66
6.74	151.13	1.07	711.20	3.72	785.24	11.53	1,665.43	1,676.96
2,666.18 D	.....	2,606.80	.....	432.03	9.33	416.04	9.33	425.37
5.94 D	1.51	.....	12.42	.....	.....	5.94 D	26.41	20.47
.....	.....	.....	.....	1.57	.....	1.57	.....	1.57
1,029.95 D	5.82 D	4,388.92	9.53 D	2,240.94	15.08	5,948.21	.88 D	5,947.33
995.29 D	654.53 D	1,040.33	809.90	217.75	193.02	299.76	560.93	860.69
671.04	.....	1,171.06	22.33	495.11	.34	2,337.21	22.67	2,359.88
688.24 D	.....	217.90	.....	33.46	.....	436.88 D	1.49 D	438.37 D
21.25	111.04 D	.....	.....	.....	1.34	.....	109.70 D	109.70 D
10.37 D	.....	2.41	.....	.....	.....	25.69	2.55	26.24
.....	21.91 D	.....	.....	.....	.....	10.37 D	.....	10.37 D
.....	.....	36.79	4.58	.04	.16	36.83	17.17 D	19.66
.....	.....	21.16 D	.....	.....	.....	21.16 D	.....	21.16 D
10.37	.....	.....	.....	.....	.....	10.37	.....	10.37
6.42 D	.....	21.16	.....	.51	.....	15.25	.....	15.25
77.18 D	125.26	11.41 D	453.51	3.51	253.16	85.08 D	831.85	746.77
.....	13.51 D	.....	.18 D	.....	4.68	.....	9.01 D	9.01 D
.....	.....	15.87	.....	.....	.....	15.87	2.40	18.27
.....	185.40 D	.....	158.27	.19	57.47	.19	39.88	40.07
96.68 D	.....	.....	.....	.....	.....	96.68 D	.....	96.68 D
329.90 D	.....	498.94	34.34	1.80	4.31	168.09	38.65	206.74
1,137.83 D	294.44 D	247.16	89.00	29.56	8.32	863.66 D	197.12 D	1,060.78 D
357.50 D	3.84 D	316.64	.....	56.19	.61	15.33	3.23 D	12.10
.....	.....	.....	.....	.....	.55	.....	.55	.55
.....	.....	.....	.....	.35	.....	.35	.....	.35
28.26 D	.....	.....	.....	1.18	.....	27.08 D	.....	27.08 D
.....	.....	.....	.....	.....	.34	.....	.34	.34
.....	.....	3.18	.....	.24	.....	3.42	.32 D	3.10
88.64 D	.....	44.45	.....	1.50		42.69 D		42.69 D

Estimated Effect on M.-K.-T. Lines September, 1923, Freight Revenue After Application of Divisions as Revised on Ju

	Automobiles-Passenger via		Other carloads, first class via		Lumber via		
	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kan
					Between Western Trunk Lines Territo		
As settled	$22,712.54	$5,303.78	$312.00	.....	$1,577.16	$1,036.30	$18
Rate Prorate	18,200.87	5,014.41	226.20	.....	1,589.25	1,017.59	19
Loss	4,511.67	289.37	85.80	.....	12.09D	18.71	
Roads Benefitting from M.-K.-T. Lines' loss:							
Atchison, Topeka & Santa Fe	.....	.....	.....	.....	.....	.....	
Baltimore & Ohio	.....	.....	.....	.....	.....	13.93	
Chicago & Alton	650.97	46.27	.....	.....	2.55 D	10.90 D	
Chi., Burlington & Quincy	1,189.04	.....	85.80	.....	42.22 D	12.11 D	
Chi. & Eastern Illinois	.....	20.62	.....	.....	.....	2.76 D	
Chicago Great Western	54.43	.....	.....	.....	11.04 D	.....	
Chi. & Ill. Midland	.....	6.21	.....	.....	.....	6.27	
Chi., Milwaukee & Gary	.....	.....	.....	.....	.....	.....	
Chi., Milwau., St. P. & Pac	371.52	.....	.....	.....	23.22 D	.61 D	
Chi. & Northwestern	36.97	190.79	.....	.....	.....	21.75	
Chi., R. I. & Pacific	.....	.....	.....	.....	.....	1.49 D	
Chi., St. P. Minnepls. & Omaha	.....	.....	.....	.....	.....	1.49 D	
Cleveland, Cinci., Chi. & St. L	.....	.....	.....	.....	.....	.....	
Clinton, Davenport & Muscatine	.....	2.55	.....	.....	.....	.....	
Des Moines & Central Iowa	.....	.....	.....	.....	.....	.....	
Elgin, Joliet & Eastern	.....	.....	.....	.....	.....	.....	
Escanaba & Lake Superior	.....	.....	.....	.....	.....	.....	
Ft. Dodge, Des Moines & Southern	.....	.....	.....	.....	.....	.....	
Great Northern	.....	.....	.....	.....	.....	.....	
Illinois Central	.....	.....	.....	.....	.....	.08 D	
Illinois Terminal	.....	.....	.....	.....	.....	.....	
Indiana Harbor Belt	.....	2.40	.....	.....	.....	.....	
Litchfield & Madison	.....	10.78	.....	.....	.....	1.24 D	
Mpls., Northfield & Southern	.....	.....	.....	.....	.....	.....	
Minneapolis & St. Louis	.....	.....	.....	.....	2.75 D	.....	
Mpls., St. Pl. & Sault Ste. Marie	.....	.....	.....	.....	2.55 D	.....	
Missouri Pacific	.....	.....	.....	.....	.....	.....	
New York Central	.....	.....	.....	.....	.....	.....	
N. Y., Chicago & St. Louis	.....	.....	.....	.....	.....	.....	
Northern Pacific	.....	.....	.....	.....	.....	.....	
Pennsylvania	.....	.....	.....	.....	.....	.....	
Toledo, St. L. & Western	.....	.....	.....	.....	.....	.32 D	
Union Pacific	.....	.....	.....	.....	.....	.....	
Wabash	2,208.74	9.75	.....	.....	72.24	6.27	
Waterloo, Cedar Falls & Nor	.....	.....	.....	.....	.....	.....	
Total	4,511.67	289.37	85.80	.....	12.09 D	18.71	

its products via Kansas City	its products via St. Louis	Other carloads via Kansas City	Other carloads via St. Louis	Less carloads via Kansas City	Less carloads via St. Louis	Total via Kansas City	Total via St. Louis	Grand Total
Territory and Southwestern Lines Territory								
$185,010.90	$62,404.58	$137,541.30	$31,817.80	$38,100.59	$16,373.61	$385,254.49	$116,936.07	$502,190.56
190,930.38	62,259.41	116,653.60	28,716.79	31,805.72	14,520.53	359,406.02	111,528.73	470,931.75
5,919.48 D	145.17	20,887.70	3,101.01	6,294.87	1,853.08	25,848.47	5,407.34	31,255.81
611.78	.....	274.32	.....	532.59	2.40	1,418.69	2.40	1,421.09
.....	.....	.....	.....	.....	2.40 D	.....	11.53	11.53
866.33	1,170.50	6,644.35	253.38	927.94	245.93	9,107.04	1,705.18	10,812.22
99.38 D	9.14 D	1,848.40	211.69	995.29	82.89	3,976.93	272.73	4,249.66
6.74	151.13	1.07	711.20	3.72	785.24	11.53	1,665.43	1,676.96
2,666.18 D	.....	2,606.80	.....	432.03	9.33	416.04	9.33	425.37
5.94 D	1.51	.....	12.42	.....	.....	5.94 D	26.41	20.47
.....	.....	.....	.....	1.57	.....	1.57	.....	1.57
1,029.95 D	5.82 D	4,388.92	9.53 D	2,240.94	15.08	5,948.21	.88 D	5,947.33
995.29 D	654.53 D	1,040.33	809.90	217.75	193.02	299.76	560.93	860.69
671.04	.....	1,171.06	22.33	495.11	.34	2,337.21	22.67	2,359.88
688.24 D	.....	217.90	.....	33.46	.....	436.88 D	1.49 D	438.37 D
21.25	111.04 D	.....	.....	.....	1.34	.....	109.70 D	109.70 D
10.37 D	.....	2.44	.....	.....	.....	23.69	2.55	26.24
.....	21.91 D	.....	.....	.....	.....	10.37 D	.....	10.37 D
.....	.....	36.79	4.58	.04	.16	36.83	17.17 D	19.66
.....	.....	21.16 D	.....	.....	.....	21.16 D	.....	21.16 D
10.37	.....	.....	.....	.....	.....	10.37	.....	10.37
6.42 D	.....	21.16	.....	.51	.....	15.25	.....	15.25
77.18 D	125.26	11.41 D	453.51	3.51	253.16	85.08 D	831.85	746.77
.....	13.51 D	.....	.18 D	.....	4.68	.....	9.01 D	9.01 D
.....	.....	15.87	.....	.....	.....	15.87	2.40	18.27
.....	185.40 D	.....	158.27	.19	57.47	.19	39.88	40.07
96.68 D	.....	.....	.....	.....	.....	96.68 D	.....	96.68 D
329.90 D	.....	498.94	34.34	1.80	4.31	168.09	38.65	206.74
1,137.83 D	294.44 D	247.16	89.00	29.56	8.32	863.66 D	197.12 D	1,060.78 D
357.50 D	3.84 D	316.64	.....	56.19	.61	15.33	3.23 D	12.10
.....	.....	.....	.....	.....	.55	.....	.55	.55
.....	.....	.....	.....	.35	.....	.35	.....	.35
28.26 D	.....	.....	.....	1.18	.....	27.08 D	.....	27.08 D
.....	.....	.....	.....	.....	.34	.....	.34	.34
.....	.....	3.18	.....	.24	.....	3.42	.32 D	3.10
88.64 D	.....	44.45	.....	1.50	.....	42.69 D	.....	42.69 D
474.51 D	3.60 D	1,507.62	350.70	319.40	190.31	3,633.49	553.43	4,186.92
14.72 D	.....	12.87	.....	.....	.....	1.85 D	.....	1.85 D
5,919.48 D	145.17	20,887.70	3,101.01	6,294.87	1,853.08	25,848.47	5,407.34	31,255.81

[fol. 1652]

Missouri-Kansas-Texas

Estimated Effect on M.-K.-T. Lines September, 1928, Freight Revenue After Application of Divisions as Revised on June 10th, 1

	Automobiles-Passenger via		Other carloads, first class via		Lumber via		Petr its
	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City
					Between Central Freight Association Territory an		
As Settled	$37,160.00	$26,677.13	.....	.....	$474.05	$1,006.95	$12,289.83
Rate Prorate	33,246.35	22,353.60	.....	.....	405.24	983.17	12,297.76
Loss	3,913.65	4,323.53	.....	.....	68.81	23.78	7.93
Roads Benefitting from M.-K.-T. Lines' loss:							
Atchison, Topeka & Santa Fe	36.21	.....	.....	.....	.....	.....	177.40
Chicago & Alton	1,099.37	1,807.25	.....	.....	7.94	4.73	250.01
Chi., Burlington & Quincy	181.27	150.82	.....	.....	.....	.....	19.40
Chi. & Eastern Illinois	.....	989.13	.....	.....	.....	19.05	.....
Chi. & Great Western	11.59	.....	.....	.....	32.58	.....	41.81
Chi. & Illinois Midland	.....	30.88	.....	.....	.....	.....	.....
Chi., Milw., St. Paul & Pac	431.93	.....	.....	.....	28.29	.....	85.62
Chi. & Northwestern	1.61	.....	.....	.....	.....	.....	.....
Chi., Rock Island & Pac	206.54	46.40	.....	.....	.....	.....	60.88
Illinois Central	.....	655.63	.....	.....	.....	.....	.....
Illinois Terminal	.....	27.31	.....	.....	.....	.....	.....
Litchfield & Madison	.....	.....	.....	.....	.....	.....	.....
Minneapolis & St. Louis	.....	.....	.....	.....	.....	.....	.....
Missouri Pacific	9.74	.....	.....	.....	.....	.....	.....
Wabash	1,935.39	616.11	.....	.....	.....	.....	111.83
Total	3,913.65	4,323.53	.....	.....	68.81	23.78	7.93
					Between Western Trunk Lines Territory and S		
					(Points in North Dakota and South Dakota not in Sout		
As Settled	.....	.....	.....	.....	.....	.....	10,594.67
Rate Prorate	.....	.....	.....	.....	.....	.....	18,522.84
Loss	.....	.....	.....	.....	.....	.....	7,928.17
Roads Benefitting from M.-K.-T. Lines' loss:							
Chi., Burlington & Quincy	.....						
Chicago Great Western	.....	.....	.....	.....	.....	.....	422.11
Chi., Milw., St. Paul & Pac	.....	.....	.....	.....	.....	.....	3,117.89

ouri-Kansas-Texas Lines

sed on June 10th,1929, in I. C. C. Docket 15234; Also Showing Roads Which Would Benefit by M.-K.-T. Lines' Loss of Revenue

	Petroleum and its products via		Other carloads via		Less carloads via		Total via		Grand Total
	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	
iation Territory and Southwestern Lines Territory									
5	$12,289.83	$20,734.34	$31,187.26	$23,795.71	$9,218.95	$7,363.25	$90,330.09	$79,577.38	$169,907.47
7	12,297.76	21,351.87	28,276.25	20,933.41	8,280.93	6,296.50	82,506.53	71,918.55	154,425.08
8	7.93 D	617.53 D	2,911.01	2,862.30	938.02	1,066.75	7,823.56	7,658.83	15,482.39
—	177.40	.....	134.79	.....	20.86	.....	369.26	.....	369.26
3	250.01 D	184.93 D	1,232.29	731.84	236.39	484.41	2,325.98	2,843.30	5,169.28
	19.40	10.89 D	605.37	44.19 D	34.62	21.24	840.66	116.98	957.64
5	.....	420.44 D	.....	1,285.21	2.84	337.82	2.84	2,210.77	2,213.61
	41.81 D	.....	208.51	.....	32.55	.....	243.42	.....	243.42
	.....	.....	.....	.....	.....	.....	.....	30.88	30.88
	85.62 D	.....	152.91	.....	122.19	.....	649.70	.....	649.70
	.....	.....	.....	.....	.44	.....	2 05	.....	2.05
	60.88	.....	212.87	.....	28.21	1.93	508.50	48.33	556.83
	.....	1.27 D	.....	787.20	.....	163.70	.....	1,605.26	1,605.26
	.....	.....	.....	.....	.....	.....	.....	27.31	27.31
	.....	.....	.....	.....	7.49	.....	7.49	.....	7.49
	.....	.....	.....	.....	1.16	.....	1.16	.....	1.16
	.....	.....	.....	16.01 D	1.97	.....	11.71	16.01 D	4.30
	111.83	.....	364.27	118.25	449.30	57.65	2,860.79	792.01	3,652.80
8	7.93 D	617.53 D	2,911.01	2,862.30	938.02	1,066.75	7,823.56	7,658.83	15,482.39
es Territory and Southwestern Lines Territory									
Dakota not in Southwestern Lines Territorial Directory)									
	10,594.67	.....	476.88	.....	107.13	.....	11,178.68	.....	11,178.68
	18,522.84	.....	474.22	.....	120.68	.....	19,117.74	.....	19,117.74
	7,928.17 D	.....	2.66	.....	13.55 D	.....	7,939.06 D	.....	7,939.06 D
			2.33 D	.....	.69 D	.....	3.02 D	.....	3.02 D
	422.11 D	.....	.....	.....	.....	.....	422.11 D	.....	422.11D
	3,117.89 D	.....	10.42 D	.....	11.88 D	.....	3,140.19 D	.....	3,140.19 D
	800.18 D	.....	8.94	.....	.58 D	.....	791.82 D	.....	791.82 D

Chi., Burlington & Quincy							
Chicago Great Western							422.11 D
Chi., Milw., St. Paul & Pac							3,117.89 D
Chicago & Northwestern							800.18 D
Chi., Rock Island & Pac							297.34 D
Chi., St. P. Mpls. & Omaha							74.22 D
Mid-Continental							167.15 D
Minneapolis & St. Louis							
Mpls. St. P. & Sault Ste. M							2,726.79 D
Missouri Pacific							71.03 D
Northern Pacific							25.65 D
Union Pacific							225.81 D
Total							7,928.17 D

		2.33 D		.69 D		3.02 D		3.02 D
422.11 D						422.11 D		422.11D
3,117.89 D		10.42 D		11.88 D		3,140.19 D		3,140.19 D
800.18 D		8.94		.58 D		791.82 D		791.82 D
297.34 D						297.34 D		297.34 D
74.22 D						74.22 D		74.22 D
167.15 D						167.15 D		167.15 D
				.25 D		.25 D		.25 D
2,726.79 D						2,726.79 D		2,726.79 D
71.03 D		6.47		.15 D		64.71 D		64.71 D
25.65 D						25.65 D		25.65 D
225.81 D						225.81 D		225.81 D
7,928.17 D		2.66		13.55 D		7,939.06 D		7,939.06 D

Missouri-Kansas-Texas

Estimated Effect on M.-K.-T. Lines September, 1928, Freight Revenue After Application of Divisions as Revised on June 10th,1

	Automobiles-Passenger via		Other carloads, first class via		Lumber via		Petro its
	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City
							Recapitulation
As Settled							
Between W. T. L. and S. W. L.	$22,712.54	$5,303.78	$312.00	.....	$1,577.16	$1,036.30	$185,010.90
Between C. F. A. and S. W. L.	37,160.00	26,677.13	.....	.....	474.05	1,006.95	12,289.83
Between W. T. L. and S. W. L. (N. Dak. and S. Dak.)	.....	.....	.....	.....	.....	.....	10,594.67
Total	59,872.54	31,980.91	312.00	.....	2,051.21	2,043.25	207,895.40
Rate Prorate							
Between W. T. L. and S. W. L.	18,200.87	5,014.41	226.20	.....	1,589.25	1,017.59	190,930.38
Between C. F. A. and S. W. L.	33,246.35	22,353.60	.....	.....	405.24	983.17	12,297.76
Between W. T. L. and S. W. L. (N. Dak. and S. Dak.)	.....	.....	.....	.....	.....	.....	18,522.84
Total	51,447.22	27,368.01	226.20	.....	1,994.49	2,000.76	221,750.98
Loss	8,425.32	4,612.90	85.80	.....	56.72	42.49	13,855.58
Roads Benefitting from M.-K.-T. Lines' loss:							
Atchison, Topake & Santa Fe	36.21	.....	.....	.....	.....	.....	789.18
Baltimore & Ohio	.....	.....	.....	.....	.....	13.93	.....
Chicago & Alton	1,750.34	1,853.52	.....	.....	5.39	6.17 D	616.32
Chi., Burlington & Quincy	1,370.31	150.82	85.80	.....	42.22 D	12.11 D	79.98
Chi. & Eastern Ill.	.....	1,009.75	.....	.....	.....	16.29	6.74
Chicago Great Western	66.02	.....	.....	.....	21.54	.....	3,130.16
Chicago & Iil. Midland	.....	37.09	.....	.....	.....	6.27	5.94
Chi., Milwau. & Gary	.....	.....	.....	.....	.....	.....	.....
Chi., Milwau., St. P. & Pac.	803.45	.....	.....	.....	5.07	.61 D	4,233.46
Chi. & Northwestern	38.58	190.79	.....	.....	.....	21.75	1,795.47
Chi., R. I., & Pacific	206.54	46.40	.....	.....	.....	.....	434.58
Chi., St. P., Mpls. & Omaha	.....	.....	.....	.....	.....	1.49 D	762.46
Cleveland, Cin., Chi., & St. L.	.....	.....	.....	.....	.....	.....	.....
Clinton, Davenport, & Muscatine	.....	2.55	.....	.....	.....	.....	21.25
Des Moines & Central Iowa	.....	.....	.....	.....	.....	.....	10.31
Elgin, Joliet & Eastern	.....	.....	.....	.....	.....	.....	.....
Escanaba & Lake Superior	.....	.....	.....	.....	.....	.....	.....
Ft. Dodge, Des Moines & Sou	.....	.....	.....	.....	.....	.....	10.31
Great Northern	.....	.....	.....	.....	.....	.....	6.45

uri-Kansas-Texas Lines

ed on June 10th,1929, in I. C. C. Docket 15234; Also Showing Roads Which Would Benefit by M.-K.-T. Lines' Loss of Revenue

Petroleum and its products via		Other carloads via		Less carloads via		Total via		Grand Total
Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	
Recapitulation								
$185,010.90	$62,404.58	$137,541.30	$31,817.80	$38,100.59	$16,373.61	$385,254.49	$116,936.07	$502,190.56
12,289.83	20,734.34	31,187.26	23,795.71	9,218.95	7,363.25	90,330.09	79,577.38	169,907.47
10,594.67	.....	476.88	.....	107.13	.....	11,178.68	.....	11,178.68
207,895.40	83,138.92	169,205.44	55,613.51	47,426.67	23,736.86	486,763.26	196,513.45	683,276.71
190,930.38	62,259.41	116,653.60	28,716.79	31,805.72	14,520.53	359,406.02	111,528.73	470,934.75
12,297.76	21,351.87	28,276.25	20,933.41	8,280.93	6,296.50	82,506.53	71,918.55	154,425.08
18,522.84	.....	474.22	.....	120.68	.....	19,117.74	.....	19,117.74
221,750.98	83,611.28	145,404.07	49,650.20	40,207.33	20,817.03	461,030.29	183,447.28	644,477.57
13,855.58 D	472.36 D	23,801.37	5,963.31	7,219.34	2,919.83	25,732.97	13,066.17	38,799.14
789.18	.....	409.11	.....	553.45	2.40	1,787.95	2.40	1,790.35
.....	.....	.....	.....	.....	2.40 D	.....	11.53	11.53
D 616.32	985.57	7,896.64	985.22	1,164.33	730.34	11,433.02	4,548.48	15,981.50
D 79.98 D	20.03 D	2,451.44	166.90	1,029.22	104.13	4,814.57	389.71	5,204.28
6.74	269.31 D	1.07	1,996.41	6.56	1,123.06	14.37	3,876.20	3,890.57
3,130.10 D	.....	2,815.31	.....	464.58	9.33	237.35	9.33	246.68
5.94 D	1.51	.....	12.42	.....	.....	5.94 D	57.29	51.35
.....	.....	.....	.....	1.57	.....	1.57	.....	1.57
D 4,233.46 D	5.82 D	4,531.41	9.53 D	2,351.25	15.08	3,457.72	.88 D	3,456.84
1,795.47 D	654.53 D	1,049.27	809.90	217.61	193.02	490.01 D	560.93	70.92
434.58	.....	1,383.93	22.33	523.32	2.27	2,548.37	71.00	2,619.37
D 762.46 D	.....	217.90	.....	33.46	.....	511.10 D	1.49 D	512.59 D
.....	111.04 D	.....	.....	.....	1.34	.....	109.70 D	109.70 D
21.25	.....	2.44	.....	.....	.....	23.69	2.55	26.24
10.37 D	.....	.....	.....	.....	.....	10.37 D	.....	10.37 D
.....	21.91 D	36.79	4.58	.04	.16	36.83	17.17 D	19.66
.....	.....	21.16 D	.....	.....	.....	21.16 D	.....	21.16 D
10.37	.....	.....	.....	.....	.....	10.37	.....	10.37
6.42 D	.....	21.16	.....	.51	.....	15.25	.....	15.25
77.13 D	122.99	11.41 D	1,240.71	2.51	122.99	85.98 D	2,427.11	2,359.02

Ft. Dodge, Des Moines & Sou	.....	.....	.....	.....	.....	.....	10.37
Great Northern	.....	.....	.....	.....	.....	.....	6.42 D
Illinois Central	.....	65 .3	.....	.....	.....	.08 D	77.18 D
Illinois Terminal	.....	27.31	.....	.....	.....	.....	.....
Indiana Harbor Belt	.....	2.40	.....	.....	.....	.....	.....
Litchfield & Madison	.....	10.78	.....	.....	.....	1.24 D	.....
Midland Continental	.....	.....	.....	.....	.....	.....	167.15 D
Mpls., Northfield & Southern	.....	.....	.....	.....	.....	.....	96.68 D
Minneapolis & St. Louis	.....	.....	.....	.....	2.75 D	.....	329.90 D
Mpls., St. P. & Sault Ste. Marie	.....	.....	.....	.....	2.55 D	.....	3,864.62 D
Missouri Pacific	9.74	.....	.....	.....	.....	.....	428.53 D
New York Central	.....	.....	.....	.....	.....	.....	.....
New York, Chi. & St. L	.....	.....	.....	.....	.....	.....	.....
Northern Pacific	.....	.....	.....	.....	.....	.....	53.91 D
Pennsylvania	.....	.....	.....	.....	.....	.....	.....
Toledo, St. L. & Western	.....	.....	.....	.....	.....	.32 D	.....
Union Pacific	.....	.....	.....	.....	.....	.....	314.45 D
Wabash	4,144.13	625.86	.....	.....	72.24	6.27	362.68 D
Waterloo, Cedar Falls & Nor	.....	.....	.....	.....	.....	.....	14.72 D
Total	8,425.32	4,612.90	85.80	.....	56.72	42.49	13,855.58 D

Accounting Department, St. Louis, Missouri, September 19, 1929.

	10.37	.....	.....	.....	.....	.....	10.37	.....	10.37
	6.42 D	.....	21.16	.....	.51	.....	15.25	.....	15.25
D	77.18 D	123.99	11.41 D	1,240.71	3.51	416.86	85.08 D	2,437.11	2,352.03
	.....	13.51 D	.....	.18 D	.....	4.68	.....	18.30	18.30
	.....	.....	15.87	.....	.....	.....	15.87	2.40	18.27
D	.....	185.40 D	.....	158.27	7.68	57.47	7.68	39.88	47.56
	167.15 D	.....	.....	.....	.....	.....	167.15 D	.....	167.15 D
	96.68 D	.....	.....	.....	.....	.....	96.68 D	.....	96.68 D
	329.90 D	.....	498.94	34.34	2.71	4.31	169.00	38.65	207.65
	3,864.62 D	294.44 D	247.16	89.00	29.56	8.32	3,590.45 D	197.12 D	3,787.57 D
	428.53 D	3.84 D	323.11	16.01 D	58.01	.61	37.67 D	19.24 D	56.91 D
	.....	.....	.....	.....	.....	.55	.....	.55	.55
	.....	.....	.....	.....	.35	.....	.35	.....	.35
	53.91 D	.....	.....	.....	1.11	.....	52.73 D	.....	52.73 D
	.....	.....	.....	.....	.....	.34	.....	.34	.34
D	.....	.....	3.18	.....	.24	.....	3.42	.32 D	3.10
	314.45 D	.....	44.45	.....	1.50	.....	268.50 D	.....	268.50 D
	362.68 D	3.60 D	1,871.89	468.95	768.70	247.96	6,494.28	1,345.44	7,839.72
	14.72 D	.....	12.87	.....	.....	.....	1.85 D	.....	1.85 D
	13,855.58 D	472.36 D	23,801.37	5,963.31	7,219.34	2,919.83	25,732.97	13,066.17	38,799.14

[fol. 1654]

Missouri-Kansas-Texas

Estimated Effect on M.-K.-T. Lines September, 1928, Freight Revenue After Application of Divisions as Revised on June 10th, 1

	Automobiles-Passenger via		Other carloads, first class via		Lumber via		Pe i
	Kansas City	St. Louis	Kansas City	St. Louis	Kansas City	St. Louis	Kansas Ci
				Missouri-Kansas-Texas R. R. Co. as a Western Trunk Line Between			
As Settled	.....	.....	.....	.....	.....	.....	$980.38
Rate Prorate	.....	.....	.....	.....	.....	.....	890.46
Loss	.....	.....	.....	.....	.....	.....	89.92
Roads Benefitting from M.-K.-T. Lines' loss:							
Atchison, Topeka & Santa Fe	.....	.....	.....	.....	.....	.....	62.68
Chicago, R. I. & Pacific	.....	.....	.....	.....	.....	.....	27.24
Total	.....	.....	.....	.....	.....	.....	89.92

Accounting Department, St. Louis, Mo., September 19, 1929.

ouri-Kansas-Texas Lines

ised on June 10th,1929, in I. C. C. Docket 15234; Also Showing Roads Which Would Benefit by M.-K.-T. Lines' Loss of Revenue

s	Petroleum and its products via Kansas City	Petroleum and its products via St. Louis	Other carloads via Kansas City	Other carloads via St. Louis	Less carloads via Kansas City	Less carloads via St. Louis	Total via Kansas City	Total via St. Louis	Grand Total
unk Line Between Kansas City, Mo., and St. Louis, Mo.									
.	$980.38	.....	.....	.....	.....	.....	$980.38	.....	$980.38
.	890.46	.....	.....	.....	.....	.....	890.46	.....	890.46
-	89.92	.....	.....	.....	.....	.....	89.92	.....	89.92
	62.68	.....	.....	.....	.....	.....	62.68	.....	62.68
	27.24	.....	.....	.....	.....	.....	27.24	.....	27.24
	89.92	.....	.....	.....	.....	.....	89.92	.....	89.92

[fol. 1655] Cross-examination.

By Mr. Reidy:

The above figures were never presented to the Interstate Commerce Commission.

By Mr. Towner:

In computing the loss of the Missouri-Kansas-Texas Railway, loss on traffic to and from non-respondent lines was included only where the non-respondent line happened to be an intermediate carrier.

Redirect examination.

By Mr. Moore:

The order provides that the formula for dividing this revenue shall be applied to the revenue from traffic originating on a line of one of the respondents in the Southwest and going to a point on a line of a respondent in the Western Trunk Line region, or vice versa. There may be intermediate carriers in there. In that event their revenue will be affected, but I have not included the revenue from any traffic from or to the line of a carrier in either region which is not a respondent in this proceeding (Tr. 66-67).

Witness W. J. Sauer, being produced, sworn and examined on the part of the petitioners, testified that he is Auditor of Freight Revenues of the Texas and New Orleans Railroad Company; that the loss of the Texas and New Orleans Railroad Company which would result if the revenue on traffic for the month of September, 1928, were divided on the basis of the Commission's formula instead of in accordance with the agreements which have prevailed between the various railroads would amount to $11,366.56 for that [fol. 1656] month; that the Texas and New Orleans Railroad is composed of fourteen different railroads, being the Southern Pacific Lines in the Southwestern territory; that he had prepared a statement showing the loss for the Southwestern Lines as a whole. The said statement was offered

in evidence as Petitioners' Exhibit 17 E. F. M., and was received in evidence subject to the same objections by the defendants, to which ruling and action of the Court the defendants, by their counsel, at the time duly excepted and still except (Tr. 68-69).

Cross-examination.

By Mr. Reidy:

Witness testified that the Commission, so far as he knew, had not had the benefit of the said statement.

Witness O. E. Moore, being produced, sworn and examined as a witness on the part of petitioners, testified that he is Auditor of the Louisiana & Arkansas Railroad Company and also has charge of the accounts of the Louisiana Railroad & Navigation Company; that he has prepared a statement showing the loss which would result to the Louisiana Railway & Navigation Company if the revenue on the traffic for the month of September, 1928, were divided in accordance with the Commission's formula in this proceeding instead of in accordance with the agreement of the carriers. That statement shows that the Louisiana Railway & Navigation Company would lose on account of the Commission's said formula the sum of $55.83 during the month of September, 1928. The said statement was received in evidence as Petitioners' Exhibit 18 E. F. M., subject to the same objections on the part of defendants, to which ruling and action of the Court the defendants, by their counsel, at the time duly excepted and still except.

[fol. 1657] Cross-examination:

By Mr. Reidy:

This exhibit, so far as the witness knows, has never been presented to the Commission (Tr. 71-72).

Mr. Moore: May it please the Court, we have also had prepared a drawing or graph showing the relation of the rate scale which the Commission uses or orders shall be used in making up this formula, showng how that scale

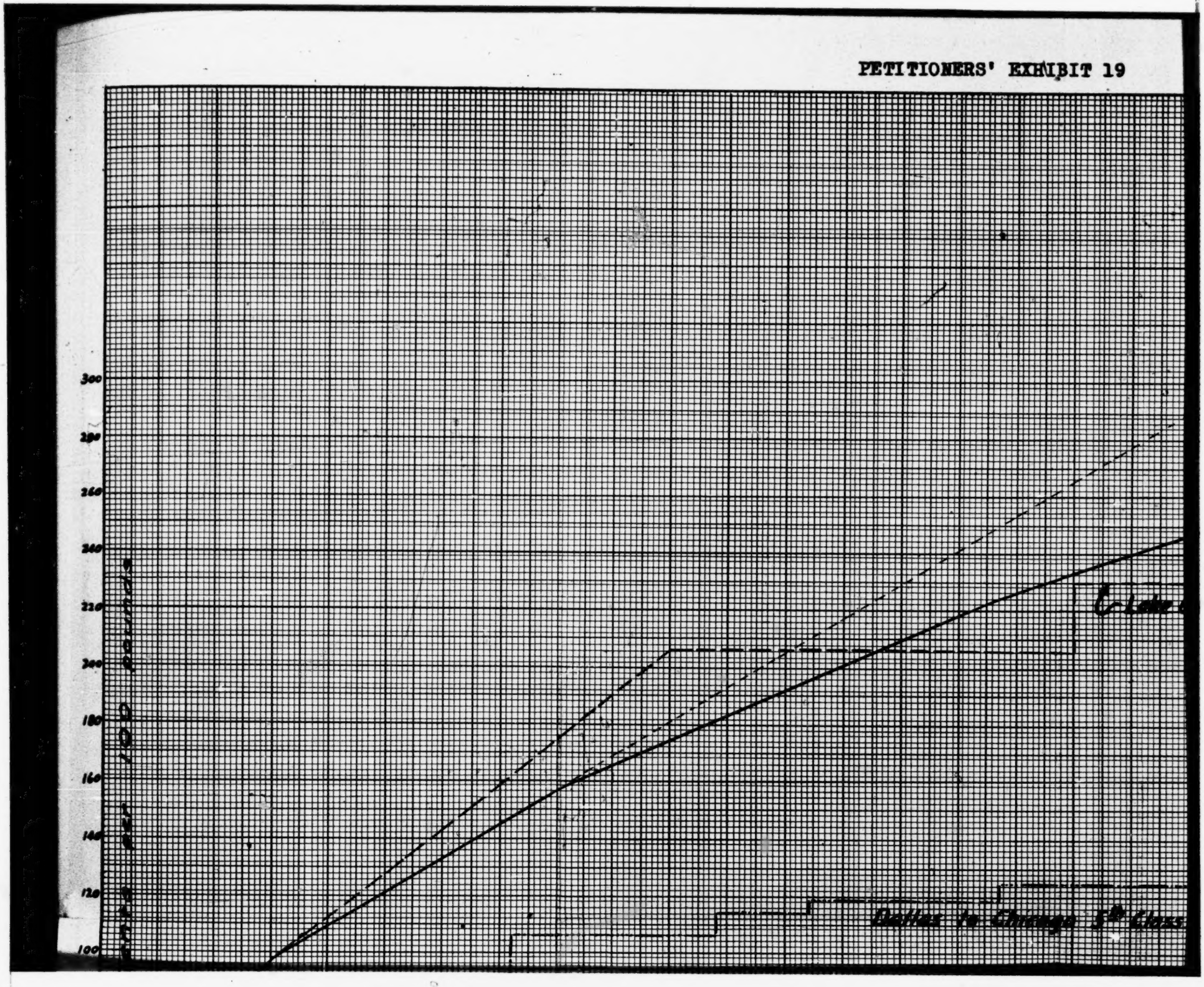
compares with the scales of rates which are actually in effect between the Western Trunk Line Territory and the Southwestern Territory, the purpose of it being to show that the two scales are on a different basis, and to show that there was no reasonable expectation that the use of the formula would produce the result which the Commission's findings, as we contend, require; that is, giving the Southwestern carriers 20% more revenue per ton per mile than was received by the Western Trunk Line carriers.

Witness S. E. SHOUP, being produced, sworn and examined as a witness on the part of the petitioners, testified that he is Assistant Engineer of The Kansas City Southern Railway Company; that he has prepared a drawing showing the relation, of the Southwestern First Class Scale of Rates which was prescribed by the Commission as the basis of the formula upon which it ordered the revenue on traffic between the Western Trunk Lines and the Southwestern Lines divided, and representative rates which are actually in effect between the Western Trunk Lines and the Southwestern Lines; that the scale on the bottom of the chart is the distance expressed in miles; that the rate in cents per 100 pounds can be taken off the left-hand margin; that the dotted line which has the notation "Constant progression scale" is the projection of the progressional load [fol. 1658] between 160 and 200 miles carried out to 1,400 miles; that that projection shows how the scale would progress if it went forward in a constant ratio to the cost. Petitioners, through their counsel, offered the said drawing in evidence as Petitioners' Exhibit 19 E. F. M. Mr. Towner, counsel for the intervening railroad defendants, objected, in the first place, because the drawing was not presented to the Commission at the hearing, and in the second place, because the Commission itself specifically said that it did not prescribe a class rate prorate, and that the said exhibit was incompetent, irrelevant and immaterial and did not have the slightest connection with the case. The same objection was made on behalf of the Interstate Commerce Commission and the United States. The said exhibit was received in evidence, subject to objections, as Petitioners' Exhibit 19 E. F. M., to which ruling and action of the Court, the de-

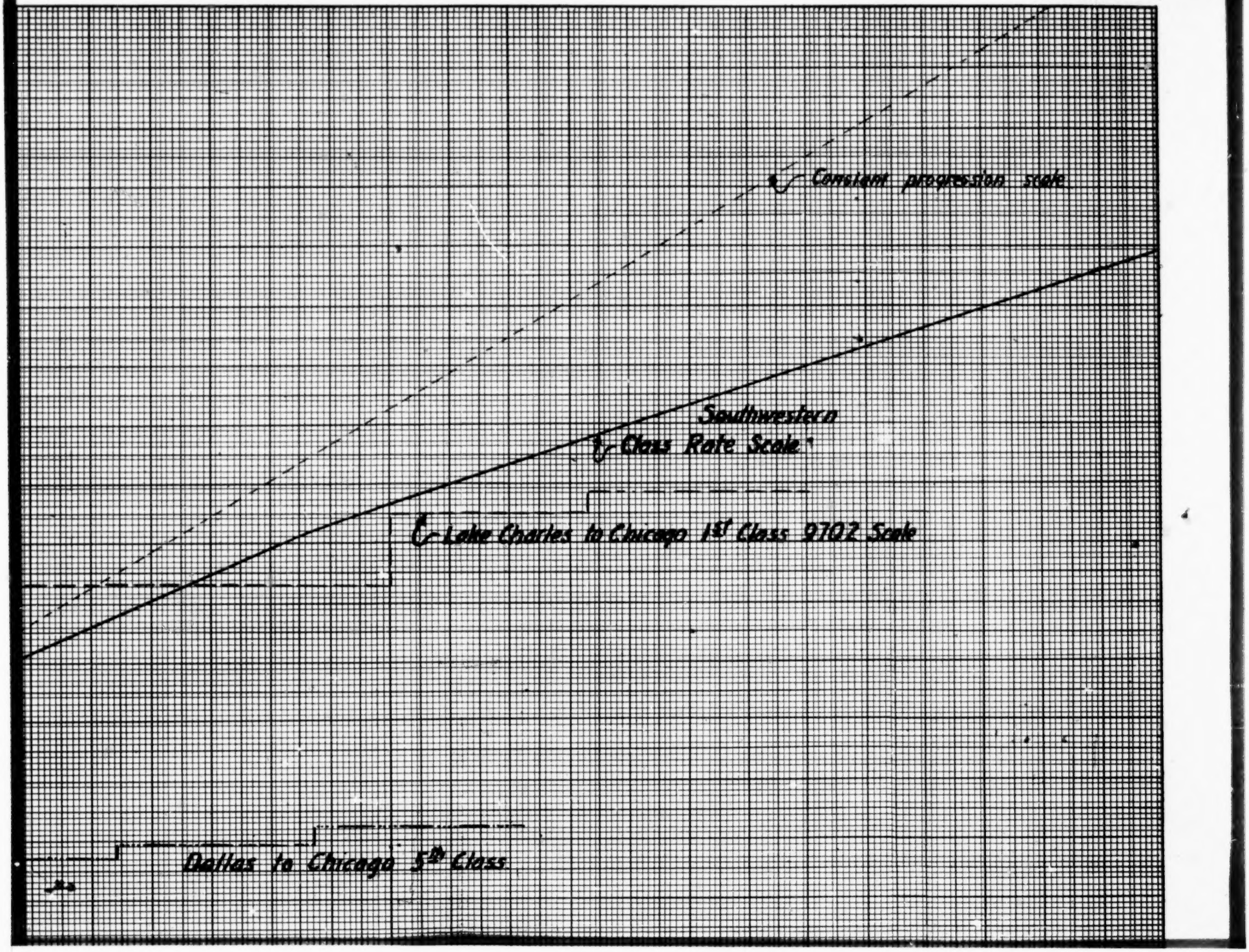
fendants, by their counsel, at the time duly excepted and still except (Tr. 73-76). The said exhibit is in words and figures as follows, to-wit:

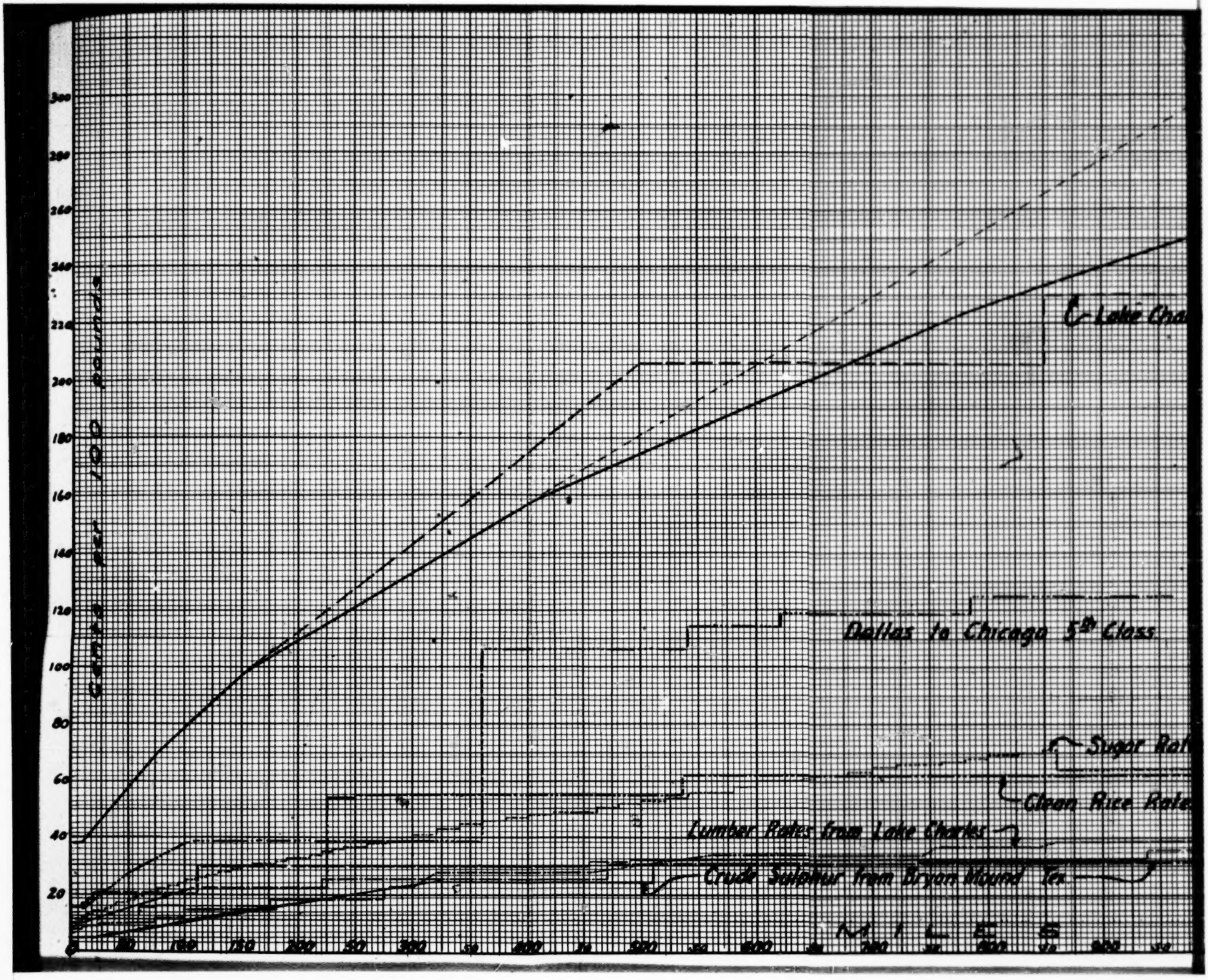
(Here follows Petitioners' Exhibit 19, side folio 1659)

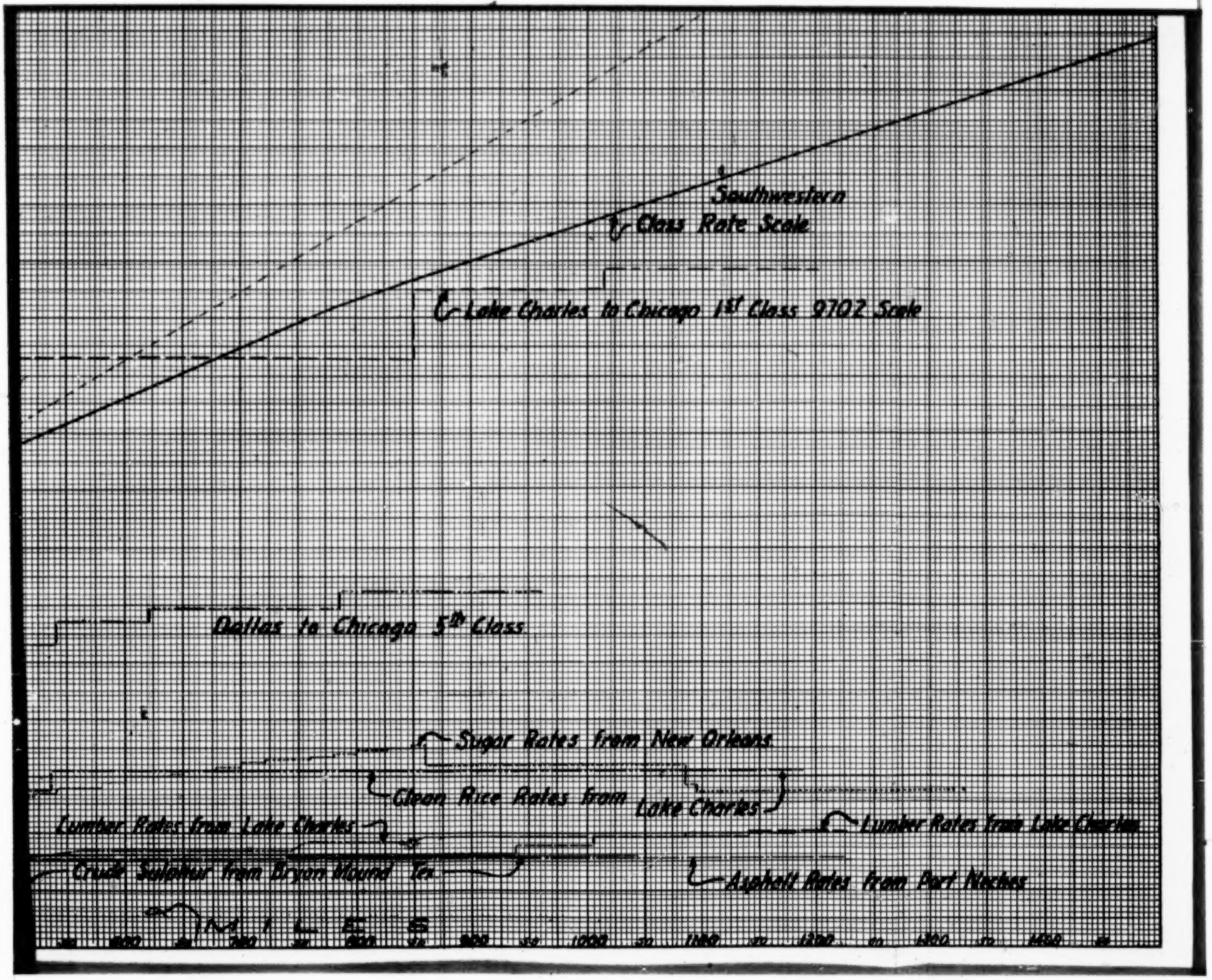
PETITIONERS' EXHIBIT 19



PETITIONERS' EXHIBIT 19




Cents per 100 pounds
300
280
260
240
220
200
180
160
140
120
100
80
60
40
20
Lake Cha
Dallas to Chicago 5th Class
Sugar Rat
Clean Rice Rate
Lumber Rates from Lake Charles
Crude Sulphur from Bryan Mound Tex


Southwestern
Class Rate Scale
Lake Charles to Chicago 1st Class 9702 Scale
Dallas to Chicago 5th Class
Sugar Rates from New Orleans
Clean Rice Rates from Lake Charles
Lumber Rates from Lake Charles
Lumber Rates from Lake Charles
Crude Sulphur from Bryan Mound Tex
Asphalt Rates from Port Neches

[fol. 1660] Cross-examination.

By Mr. Reidy:

This exhibit was not presented to the Commission.

Witness L. J. Hensley, being produced, sworn and examined as a witness on the part of the petitioners, testified that he is Comptroller of The Kansas City Southern Railway Company; that he is familiar with the accounting reports that are made by the railroad companies to the Interstate Commerce Commission; that the term "annual report" has a well understood significance; that the annual report is an annual return made to the Commission by the carriers, giving information on forms as prescribed by the Commission; that it is a printed book calling for certain [fol. 1661] information that is filled in by the carriers and furnished to the Commission; that the annual report does not call for a statement of the traffic density of the carriers segregated to each state, that is, showing the traffic density in each state through which the carrier operates; that the witness does not make any such report to the Interstate Commerce Commission as to the traffic density by states; and that no such information is furnished in the annual report (Tr. 77-78).

The witness further testified that he had prepared a list showing all the railroads in the Western Trunk Line region and the Southwestern region, respectively, and that the said list was correct according to the best of his knowledge and belief. Petitioners, through their counsel, offered the said list in evidence as Petitioners' Exhibit No. 20 E. F. M., and the same was received in evidence, subject to the same objections as to the other exhibits, to which ruling and action of the court the defendants, by their counsel, at the time duly excepted and still except. The said list is in words and figures as follows:

Petitioners' Exhibit 20

Statement Showing the Names of All Railroad Companies Which Have Mileage in the Western Trunk Line Territory and Southwestern Territory, Respectively, as Those Territories were designated by the Commission in its Report in I. C. C. Docket No. 15234, 148 I. C. C. 457, 458; Together with the Classification of said Railroads

Western Trunk Line Territory

The Western Trunk Line territory was defined by the Commission as embracing the States of Iowa, Minnesota, Wisconsin, Illinois, North Dakota, South Dakota, Missouri, on and north of the main line of the Missouri Pacific between Kansas City and St. Louis, and the Upper Peninsula of Michigan (148 I. C. C. 457).

Name of Carrier

Class I:

The Atchison, Topeka and Santa Fe Railway Company.
The Baltimore and Ohio Railroad Company.
Canadian National Railways.
[fol. 1662] The Chesapeake and Ohio Railway Company.
Chicago and Northwestern Railway Company.
The Chicago and Alton Railroad Company.
Chicago, Burlington & Quincy Railroad Company.
Chicago and Eastern Illinois Railway Company.
Chicago Great Western Railroad Company.
Chicago and Illinois Midland Railway Company.
Chicago, Indianapolis and Louisville Railway Company.
Chicago, Milwaukee, St. Paul and Pacific Railroad Company.
The Chicago, Rock Island and Pacific Railway Company.
Chicago, St. Paul, Minneapolis and Omaha Railway Company.
The Cleveland, Cincinnati, Chicago and St. Louis Railway Company.
The Duluth and Iron Range Railroad Company.
Duluth, Missabe and Northern Railway Company.
The Duluth, South Shore and Atlantic Railway Company.
Elgin, Joliet and Eastern Railway Company.
Erie Railroad Company.
Grand Trunk Railway System.
Great Northern Railway Company.
Green Bay and Western Railroad Company.
Illinois Central Railroad Company.
Lake Superior & Ishpeming Railroad Company.
Louisville and Nashville Railroad Company.
The Michigan Central Railroad Company.
The Minneapolis & St. Louis Railroad Company.

Minneapolis, St. Paul & Sault Ste. Marie Railway Company.
Missouri-Kansas-Texas Railroad Company.
Missouri Pacific Railroad Company.
Mobile & Ohio Railroad Company.
The New York Central Railroad Company.
The New York, Chicago and St. Louis Railroad Company.
Northern Pacific Railway Company.
The Pennsylvania Railroad Company.
Pere Marquette Railway Company.
Quincy, Omaha & Kansas City Railroad Company.
The St. Joseph and Grand Island Railway Company.
St. Louis Southwestern Railway Company.
Southern Railway Company.
Toledo, Peoria & Western Railway Company.
Union Pacific Railroad Company.
Wabash Railway Company.

Class II:

Alton & Eastern Railroad Company.
Chicago, Springfield & St. Louis Railway Company.
Copper Range Railroad Company.
Davenport, Rock Island and Northwestern Railway Company.
Duluth & Northeastern Railroad Company.
Escanaba and Lake Superior Railroad Company.
Farmers Grain and Shipping Company.
Illinois Terminal Company.
Jacksonville & Havana Railroad Company.
Jefferson Southwestern Railroad Company.
Kewanee, Green Bay and Western Railroad Company.
LaCrosse and Southeastern Railway Company.
Litchfield and Madison Railway Company.
Manistique and Lake Superior Railroad Company.
Marinette, Tomahawk & Western Railroad Company.
Midland Continental Railroad.
Mineral Range Railroad Company.
[fol. 1663] Mineral Point and Northern Railway Company.
Minneapolis, Northfield and Southern Railway.
Minneapolis & Rainy River Railway Company.
Minneapolis, Red Lake and Manitoba Railway Company.
Minnesota, Dakota & Western Railway Company.

Minnesota and International Railway Company.
Minnesota Western Railroad Company.
Missouri-Illinois Railroad Company.
Paducah & Illinois Railroad Company.
Rock Island Southern Railway Company.
St. Louis and Hannibal Railroad Company.
The St. Louis and O'Fallon Railway Company.
St. Louis and Ohio River Railroad.
Wisconsin & Michigan Railroad Company.

Class III:

Atlantic Northern Railway Company.
Cape Girardeau Northern Railway Company.
Cazenovia Southern Railroad Company.
The Ettrick & Northern Railroad Company.
The Galesburg and Great Eastern Railroad Company.
Hanover Railway Company.
Hillsboro and Northeastern Railway Company.
Hooppole, Yorktown and Tampico Railroad Company.
Houghton, Chassell & Southwestern Railway.
The Kansas & Sidell Railroad Company.
Laona & Northern Railway Company.
Macomb, Industry & Littleton Railway Company.
Manchester and Oneida Railway Company.
Ontonagon Railroad Company.
Peoria, Hanna City & Western Railway Company.
Rapid City, Black Hills & Western Railroad Company.
Rockport, Langdon & Northern Railway Company.
Rutland, Toluca & Northern Railroad Company.
Shelby County Railway Company.
Superior & Southeastern Railway Company.
Tabor and Northern Railway Company.
The Westfield Railroad Company.
Yale Short Line Railroad Company.

Southwestern Territory

The Southwestern Territory was Defined by the Commission as embracing the States of Texas, Arkansas, Oklahoma, Louisiana, west of the Mississippi River, and Missouri, south of the main line of the Missouri Pacific between Kansas City and St. Louis (148 I. C. C. 458).

Name of Carrier

Class I:

The Atchison, Topeka and Santa Fe Railway Company.
The Beaumont, Sour Lake & Western Railway Company.
The Chicago, Rock Island and Gulf Railway Company.
The Chicago, Rock Island and Pacific Railway Company.
Fort Smith and Western Railway.
Fort Worth and Denver City Railway Company.
[fol. 1664] Fort Worth & Rio Grande Railway Company.
Gulf, Colorado and Santa Fe Railway Company.
International-Great Northern Railroad Company.
The Kansas City, Mexico and Orient Railway Company.
Kansas City, Mexico and Orient Railway Company of Texas.
The Kansas City Southern Railway Company.
Kansas, Oklahoma & Gulf Railway Company.
Kansas, Oklahoma & Gulf Railway Company of Texas.
Louisiana & Arkansas Railway Company.
Louisiana Railway and Navigation Company.
Louisiana Railway & Navigation Company of Texas.
Midland Valley Railroad Company.
Missouri-Kansas-Texas Railroad Company.
Missouri-Kansas-Texas Railroad Company of Texas.
Missouri and North Arkansas Railway Company (W. Stephenson, Receiver).
Missouri Pacific Railroad Company.
New Orleans, Texas & Mexico Railway Company.
Panhandle and Santa Fe Railway Company.
The St. Louis, Brownsville and Mexico Railway Company.
St. Louis-San Francisco Railway Company.
St. Louis, San Francisco and Texas Railway Company.
St. Louis Southwestern Railway Company.
St. Louis Southwestern Railway Company of Texas.
San Antonio, Uvalde & Gulf Railroad Company.
Texarkana and Fort Smith Railway Company.
Texas and New Orleans Railroad Company.
The Texas Mexican Railway Company.
The Texas and Pacific Railway Company.
The Trinity and Brazos Valley Railway Company (John A. Hulen, Receiver).
The Wichita Valley Railway Company.
The Yazoo and Mississippi Valley Railroad Company.

Class II:

Abilene and Southern Railway Company.
Arkansas & Louisiana Missouri Railway Company.
Ashley, Drew & Northern Railway Company.
Blytheville, Leachville & Arkansas Southern Railroad Company.
Brimstone Railroad & Canal Company.
Cisco & Northeastern Railway Company.
Deering Southwestern Railway.
DeQueen and Eastern Railroad Company.
Galveston, Houston and Henderson Railroad Company.
Graysonia, Nashville & Ashdown Railroad Company.
Groveton, Lufkin & Northern Railway Company.
The Gulf & Sabine River Railroad Company.
Gulf, Texas & Western Railway Company (W. Frank Knox, Receiver).
Houston and Brazos Valley Railroad Company.
The Louisiana and North West Railroad Company.
Miami Mineral Belt Railroad Company.
Mississippi River and Bonne Terre Railway.
Missouri-Illinois Railroad Company.
Missouri Southern Railroad Company.
New Iberia & Northern Railroad Company.
Northeast Oklahoma Railroad Company.
Oklahoma City-Ada-Atoka Railway Company.
Oklahoma-Southwestern Railway Company.
Oklahoma Union Railway Company.
Okmulgee Northern Railway Company.
The Orange & Northwestern Railroad Company.
Osage Railway Company.
[fol. 1665] Paris and Mt. Pleasant Railroad Company (R. W. Wortham, Receiver).
The Prescott and Northwestern Railroad Company.
Quanah, Acme & Pacific Railway Company.
Reader Railroad.
Red River and Gulf Railroad.
Rio Grande and Eagle Pass Railway Company.
Roscoe, Snyder and Pacific Railway Company.
San Antonio Southern Railway Company.
San Benito & Rio Grande Valley Railway Company.
The Sligo & Eastern Railroad Company.
Sugar Land Railway Company.

Texas Southeastern Railroad Company.
Texas, Oklahoma & Eastern Railway Company.
Tremont & Gulf Railway Company.
Waco, Beaumont, Trinity & Sabine Railway Company.
The Weatherford, Mineral Wells & Northwestern Railway Company.
Wichita Falls & Southern Railroad Company.

Class III:

Angelina & Neches River Railroad Company.
Aransas Harbor Terminal Railway.
Arkansas Railroad Company.
Arkansas Short Line.
The Arkansas Western Railway Company.
Asherton and Gulf Railway Company.
Asphalt Belt Railway Company.
Augusta Railroad Company.
Bartlett Western Railway.
Bauxite & Northern Railway Company.
Beaver, Meade and Englewood Railroad Company.
Brookings & Peach Orchard Railroad Company.
Caddo & Choctaw Railroad Company.
Cairo, Truman & Southern Railroad Company.
Cape Girardeau Northern Railway Company (Clarence L. Grant, Receiver).
Caro Northern Railway Company (W. M. Ross, Receiver).
Central Railway Company of Arkansas.
Christie & Eastern Railway Company.
Dardanelle & Russellville Railroad Company.
The Denison and Pacific Suburban Railway Company.
Doniphan, Kensett & Searcy Railway.
Eastland, Wichita Falls & Gulf Railroad Company.
East Texas and Gulf Railway Company.
El Dorado and Wesson Railway Company.
Fordyce and Princeton Railroad Company.
Fort Smith, Subiaco & Rock Island Railroad Company.
Fredericksburg & Northern Railway Company.
Gideon and North Island Railroad Company.
Grand Prairie Branch Railroad Company.
Gulf & Northern Railway Company.
Hamlin & Northwestern Railway Company of Texas.
Jefferson & Northwestern Railway Company.

Kinder & Northwestern Railroad Company.
Leesville, Slagle and Eastern Railway Company.
The Louisiana & Pine Bluff Railway Company.
Louisiana Southern Railway Company.
Lufkin, Hemphill and Gulf Railway Company.
Manila & Southwestern Railway Company.
The Mansfield Railway & Transportation Company.
Marshall, Elysian Fields and Southeastern Railway Company.
Montana Railroad.
[fol. 1666] Moscow, Camden & San Augustine Railroad.
Murfreesboro-Nashville Southwestern Railway Company.
The Nacogdoches & Southeastern Railroad Company.
The Natchez, Urania and Ruston Railway Company.
North Louisiana & Gulf Railroad Company.
Oakdale & Gulf Railway Company.
Oklahoma & Rich Mountain Railroad Company.
Ouachita and Northwestern Railroad Company.
The Pecos Valley Southern Railway Company.
Pittsburg County Railway Company.
Port Isabel & Rio Grande Valley Railroad.
Rio Grande City Railway Company.
Rio Grande, Micolithic and Northern Railway.
The Roby and Northern Railroad Company.
Rockdale, Sandow & Southern Railway.
Sabine & Neches Valley Railway Company.
The Sibley, Lake Bisteneau & Southern Railway Company.
Shreveport, Houston & Gulf Railroad Company.
Texas-New Mexico Railway Company.
Texas Short Line Railway Company.
Thornton and Alexandria Railway Company.
Trinity Valley & Northern Railway Company.
Trinity Valley Southern Railroad Company.
The Union Traction Company (John F. Layng, Receiver).
Uvalde & Northern Railway Company.
Warren & Ouachita Valley Railway Company.
Warren & Saline River Railroad Company.

Switching and terminal companies are not included.

Petitioners also offered to prove, by the same witness, that for the first six months of the year 1929, based upon

the book value, which is the basis which was used by the Commission in determining the rates of return of the carriers, the northwestern region had a return, for that period of six months, on an annual basis, of 5.08 per cent per annum, the Central Western region 5.83 per cent per annum, and the Southwestern region 4.69 per cent per annum; that the Western Trunk Line carriers are located in the eastern parts of the Northwestern region and the Central Western region; that the condition of the Western Trunk Line carriers as shown by the figures for the first six months of 1929, is better than that of the Southwestern carriers. Mr. Towner, counsel for the Western Trunk Line [fol. 1667] respondents, objected to the said offer of proof on the grounds that it is incompetent and inadmissible, having no evidentiary value in the case, and that the same is not a matter which the Court can consider in the exercise of the statutory jurisdiction in this case. Mr. Collins, counsel for the United States, concurred in the above objections, and also on the ground that the opinion of the Commission was issued on December 10, 1928, and that the figures offerred which are those of 1929, are subsequent to the admissions and conclusions of fact before the Commission. Mr. Reidy, counsel for the Interstate Commerce Commission, concurred in the objections of the United States. The objection was sustained, to which ruling and action of the Court petitioners, by their counsel, duly excepted and still except.

Mr. Towner, counsel for the Western Trunk Line respondents, objected also for the reason that the said Southwestern and Northwestern regions include territories not involved in the Commission's decision, and include a great number of railroad companies which are not respondents. The objection was sustained, and petitioners duly excepted and still except (Tr. 81-84).

Cross-examination.

By Mr. Collins:

"Q. I wanted to ask about this report. What report did you describe in the beginning to Mr. Moore concerning the traffic figures, or discrepancy of traffic density?

"A. Mr. Moore asked me if the annual report to the Interstate Commerce Commission included a statement of traffic density by states, and I answered that it does not.

"Q. All I want to get fixed is as to just what report you had in mind, whether it was the printed form that is mailed [fol. 1668] out each year by the Commission and upon which returns are made to the Commission?

"A. There is only one report to the Interstate Commerce Commission rendered by carriers, so far as I know, that is termed the 'annual report.' That is the form of book report that I described.

"Q. You are referring to the printed form report published by the Commission upon which returns are made?

"A. Yes, sir."

Redirect examination.

By Mr. Moore:

The Quincy, Omaha & Kansas City Railroad Company belon[illegible] the railroad system of the Chicago, Burlington & C[illegible]ailroad Company. The Chicago, Burlington & [illegible]y Railroad Company is the owner of the capital stock of the Quincy, Omaha & Kansas City. The Minneapolis, St. Paul & Sault Ste. Marie Railway Company belongs, through ownership of capital stock, to the Canadian Pacific Railroad Company. I believe they do not own all of the capital stock, but they own a controlling interest in it. The Texarkana and Fort Smith Railway Company and The Arkansas Western Railway Company both belong to the Kansas City Southern through ownership of all of the outstanding stock of those companies.

Whereupon, the Court stood at recess until two o'clock P. M., of said Friday, September 20, 1929 (Tr. 84-86).

Afternoon Session, Friday, September 20, 1929

Pursuant to adjournment as aforesaid, at two o'clock p. m., of said Friday, September 20, 1929, the Court met, present and presiding as before, and the hearing proceeded.

Mr. Towner, counsel for the Western Trunk Line respondents, announced that he had prepared the answer of those railroads to the amended bill, which he would file, there being no objection.

[fol. 1669] Witness L. J. HENSLEY resumed the stand on behalf of the petitioners, having been previously duly sworn, and further testified as follows:

Redirect examination.

By Mr. Moore:

"Q. You testified that the annual report which the railroads are required to make to the Interstate Commerce Commission does not call for information as to the traffic density by each state through which the road operates. Have you a copy of that publication of the Commission in which you are required to furnish the information?

"A. I have a copy of the form of the report for the year ended December 31, 1927.

"Mr. Moore: We offer that in evidence to show just what it does call for."

(The said report was marked by the reporter as Petitioners Exhibit 21 E. F. M., and was received in evidence.)

Petitioners, through their counsel, also offered in evidence the transcript of the argument at the hearing on the said proceeding before the Commission. There being no objection, the same was received in evidence as Petitioners' Exhibit 22 E. F. M., which being offered in evidence is in words and figures as follows (Tr. 6181-6248):

[fol. 1670] PETITIONERS' EXHIBIT 22

BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 15234

In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories

Main Hearing Room, I. C. C. Building, Washington, D. C.

Friday, January 13, 1928.

The above-entitled matter came on for oral argument before the full Commission, pursuant to notice, at ten o'clock a. m., Friday, January 13, 1928.

Before Commissioners Meyer (Acting Chairman), Aitchison, Brainerd, Eastman, Esch, Lewis, McManamy, Taylor and Woodlock.

Appearances:

Mr. F. H. Towner, 38 South Dearborn St., Chicago, Ill., on behalf of the Western Trunk Lines;

Mr. G. H. Muckley, 205 Transportation Building, Washington, D. C., on behalf of the Southwestern Lines;

Mr. R. S. Outlaw, 1211 Railway Exchange, Chicago, Ill., on behalf of the Southwestern Lines.

Proceedings

Commissioner Meyer: The argument this morning is on Docket No. 15234, in the matter of the divisions of freight rates in Western and Mountain-Pacific territories.

Mr. Towner, we are ready.

One hour has been assigned to each side.

Argument of Mr. F. H. Towner in Behalf of the Western Lines

Mr. Towner: May it please your Honors, in this case I [fol. 1671] represent one entire side of the controversy, that is to say the following railroads: The Chicago & Alton Railroad Company, Chicago Great Western Railroad Company, Chicago & Northwestern Railway Company, Chicago, St. Paul, Minneapolis & Omaha Railway Company, Chicago & Eastern Illinois Railway Company, Chicago, Milwaukee & St. Paul Railway Company, Minneapolis & St. Louis Railroad Company, Chicago, Burlington & Quincy Railroad Company, Wabash Railway Company and the Illinois Central Railroad Company, and all of the incidental receivers of various of those lines.

Commissioner Meyer: Well, incidentally, there are not as many today as there were a few days ago.

Mr. Towner: I know; that is my misfortune, Mr. Commissioner.

The case itself involves the divisions of all of the traffic moving between Western Trunk Lines and Southwestern territories and also divisions as between the Southwestern Lines and the so-called Western Trunk Lines, all the lines

which cross west of certain territory and traffic between Southwestern territory and Eastern territory.

I had a map made up to show the territories and the gateways.

Before I go to the map, I want to give the Commission some of the history of this thing. Several thousand pages of testimony is in the record and there are many hundreds of exhibits, and it will obviously be impossible to do more than touch the high spots in an hour's argument. However, I think that will be sufficient for that purpose.

This case was started back in October, 1923, and it was a Commission investigation; that is to say, an order was made instituting a general investigation not only of the Southwestern divisions but divisions on Trans-Continental traffic and the so-called Trans-Missouri traffic. After the investigation was started there were some conferences held in Washington before Mr. Potter who then had charge of [fol. 1672] the case, the conferences being held for the purpose of making a settlement, if possible, of the Trans-Continental divisions. I understand that it started at that time. The effort was not successful and the Trans-Continental division went to hearing and we struggled along for a long time and made an enormous record of many, many exhibits, and after we did that the roads interested made a settlement which produced some increase to the Western Trunk Lines, but the revenue transferred was fairly substantial. The settlement made at that time also covered the Trans-Missouri division as to which there had been no hearing. No order has ever been made by this Commission with respect to those two features of the case. Mr. Disque, the Examiner, was present at some of the conferences and at least that preceded the settlement of the Trans-Missouri and the Trans-Continental divisions. But, as I say, no order has been made with respect to these divisions but, so far as we are concerned, they are disposed of.

That left the divisions on traffic to and from the Southwest. We had a number of hearings in that part of the case, four or five as I recall it, and accumulated quite a record, several thousand pages of testimony and many hundreds of exhibits.

The respondents in the case, so far as Western Trunk Lines are concerned, are all the principal roads operating in Western Trunk Line territory defined in the Commission's order. I would not dare say that with respect to Southwestern Lines because the contention has been made that certain lines not named as respondents should be. As a matter of fact, the Southwestern Lines asked that all the short lines in the Southwest be made respondents. That petition, however, was denied by the Commission.

Now, the territory that is involved in the Commission's order is outlined on this map (indicating). The radiant color down here (indicating) outlines the Southwestern territory and this funeral black surrounds Western traffic [fol. 1673] lines territory. These lines indicate the divisions of traffic to and from Texas. These divisions, to me, are a terrible mess. I do not know how else to describe them. I have been playing around the case for two or three years and do not know much about the case, at least not much more about it now than when we started. We had to put in 33 maps to show the divisional groups, North and South. The division seems to vary not only with the territories but sometimes with respect to different rates on the same hauls; consequently, on one map it is impossible to put all these groupings, but I am advised by the traffic men that these maps or rather these groups on Texas traffic, in general, are representative of the traffic to and from the other territories. If I am wrong, some of the able counsel present will correct me.

Most of the traffic moves through Kansas City, St. Louis, and Cairo. Cairo, however, is an unimportant gateway for most of the traffic goes through Kansas City and St. Louis, and, of that traffic, most of it goes through Kansas City.

Commissioner Eastman: Is there any significance attached to the coloring of the map?

Mr. Towner: There is, in the black, Mr. Eastman. I did not pick the color out but any of us would have if we had been surrounding Western traffic lines.

The divisions are difficult to explain orally. It was difficult to explain when I was writing the brief. Even when I was writing the brief, when I had no opposition or cross-examination to meet, I found it difficult.

I have drawn up a statement of the principal divisions which, however, for the most part apply on merchandise per

cents. On the Southwestern, contrary to the arrangement that existed on the Trans-Continental traffic, there are a great variety of per cents. These vary with the junctions. [fol. 1674] Sometimes with the railroad that handles the traffic.

The principal traffic between Western Trunk Line territory and Southern is lumber and oil which is practically all north-bound, the oil from Oklahoma, Louisiana, Texas and Arkansas and the lumber from the lumber territory in the Southwest. It is very, very difficult to outline these divisions because they vary with almost every destination. From Texas, via Kansas City, the Western Trunk Lines, to Chicago, get 30 per cent of revenue, and the Southwest 7 per cent, St. Louis 18 to 20, and Milwaukee division some. St. Paul, I think, gets the balance of the rates after the Southwestern have taken 70 per cent, that balance of the rate being composed, as I recall it, of the balance of the through rate to Chicago, plus arbitraries, or something of that sort.

From Louisiana to Chicago, via Kansas City, 60 per cent goes to the South and 40 to the North. Those are merchandise per cents which do not move the majority volume of the traffic. I do not know that it adds much to anybody's understanding of the record to have a lot of these per cents given. You will find attached to the back of the tentative report that was gotten out by the Examiner this statement which was taken from exhibits put into the record which show the revenue is divided and how the revenue is divided which is the important thing, by the three gateways mentioned.

Commissioner Meyer: Before you go into the report: referring to the division of 60 South and 40 North; in a word, what is the explanation?

Mr. Towner: Well, I do not know. The fact of the matter is that most of these merchandise per cents have been in effect a good many years; most of them were established in the nineties, some time, if I am not mistaken, in the early nineties and, except for some slight changes, they have been in effect ever since.

[fol. 1675] Commissionr Meyer: Does it mean that one set predominates in the North and one in the South?

Mr. Towner: I do not know, Mr. Commissioner; that is shrouded in mystery.

Commissioner Meyer: What is the present explanation for the difference in the present North and South rates? The South takes 60 per cent?

Mr. Towner: They take 60 on the revenue and the——

Commissioner Meyer (interposing): And the companies North 40?

Mr. Towner: No.

Commissioner Meyer: I got the impression the division was one thing when the traffic movement was South and quite different when it was North.

Mr. Towner: Not on the merchandise per cent. Take the Texas division of 70-30; that would be the same whether the traffic moved North or South and the same thing is true with traffic of the other groups to other destinations. They apply between, as a rule, in every case.

Commissioner Eastman: Did the lines you represent propose a substitute basis?

Mr. Towner: We did. We had no luck with it. The tentative report here——

Commissioner Eastman (interposing): Did you attempt to justify that basis by the various factors and considerations as named in the Statute?

Mr. Towner: Yes, to the best of my ability. The report winds up in this fashion——

Commissioner Taylor (interposing): What page?

Mr. Towner: Page 23: "No such convincing showing has been made as would justify affirmative action on the part [fol. 1676] of this Commission with respect to the divisions in the aggregate, but there is much reason to believe that a constructive revision of individual divisions by the carriers interested would be warranted." That disposes of this litigation so far as the Examiner is concerned.

That brings me up to the first objection that I have to the report: this is a Commission investigation, that is to say the Commission so far as this record shows, wanted to know what the divisions were and what, if anything, was wrong with them. Otherwise, they would not have started an investigation. This is not an affirmative complaint. No complaint whatever has been filed in the case.

I understood that in general investigations by this Commission, that the activities of the Commission and the representatives of the Commission were bent with an effort to

get into the record what was necessary to enable the Commission to decide the issues presented to it and covered by the investigation. That is not this kind of a report. In the first place, one set of lines are named as "plaintiffs" and the other "defendants". I do not particularly object to that or to the nomenclaure (nomenclature), but the effect *is that that attitude has been and the effect* of that attitude has been to impose on the Western Trunk Lines the great burden of proof as under an affirmative complaint case, and the Examiner winds up, as I have said, by saying: "No such convincing showing has been made"—I presume by us, "as would justify affirmative action on the part of the Commission with respect to the divisions in the aggregate, but there is much reason to believe that a constructive revision of individual division by the carriers interested would be warranted." The form of the report is unimportant, but the conclusion is important.

What I have in mind is this: in Western territory we have had under way from time to time various efforts to increase our revenue for we think it is too low, and this Commission has said it is too low; we have two places from [fol. 1677] which to get money, either from connecting lines, increasing divisions, or from the public in increased rates.

In this particular case, what I would like to know from the Commission is whether or not these divisions with the Southwestern Lines are right. In other words, if we are not entitled to increases in these divisions the finding of the Examiner should have been and the ruling of the Commission should be that the division is proper, not that any such finding as is reported by the Examiner should be made, that "No such convincing showing has been made as would warrant" this Commission to change the rates.

Commissioner Taylor: You say that 33 maps have been filed in connection with this matter and there have been two or three years study of the subject. What is your opinion of it?

Mr. Towner: I think the rate is all wrong and we should get a mileage pro rate.

Commissioner Taylor: All right.

Mr. Towner: That has been my position in this case.

Commissioner Taylor: I thought from your remarks that you were endorsing the report.

Mr. Towner: Who, I?

Commissioner Taylor: I thought you were endorsing the report, the way you were starting out at it.

Mr. Towner: Not exactly. I had intended to get around, sooner or later, to a condemnation of it.

Commissioner Taylor: I wanted to get that clear.

Mr. Towner: At any rate, with respect to this one point: I think that under this form of investigation we are entitled to a finding of either "Yes" or "No." We want to know—and to this extent I certainly speak for all the Western Trunk Lines—we want to know, we Western Lines, if we are entitled to money by increased divisions with the [fol. 1678] Southwestern connections. We have been before the Commission and certain proceedings—if our contentions are upheld, will increase our revenue if everything goes all right. We have settled the Trans-Continental case, subject of course to your approval: that is one door that is closed. If we get an increase in class rates that is another door that is closed. If we get an increase in Southwestern divisions that is another one.

In a nutshell, that is my first objection to this report; if it has to be bad news I would like to have it definite.

Commissioner Meyer: I am a little puzzled by your last expression; there seems to be, to your mind, a series of alternatives but the choice to you is a "closed door."

Mr. Towner: The "closed door" results in this situation: we either get money, more money, or we do not. The Examiner finds, for example—here is a sample of a finding for a recommendation of his for a finding: "No such convincing showing has been made as would justify affirmative action on the part of this Commission with respect to the divisions in the aggregate, but there is much reason to believe that a constructive revision of individual divisions by the carriers interested would be warranted."

That, doubtless, would be a desirable thing to do, but as far as I am concerned, and my concern is to get more money for the railroads that I represent, that is purely academic. If the good and bad divisions balances that, there should be no change; that is a matter of the traffic men to take care of. They can fix that up themselves. What I am interested in is to get such a change in the division as will transfer from the Southern to the Western Lines some of the money that the Southwestern is getting under the present division.

That is what I mean when I say there is always "Yes" and "No" as to whether we get anything or not.

Commissioner McManamy: And you have endeavored to bring about by negotiation the result suggested by the Examiner in the last sentence quoted?

[fol. 1679] Mr. Towner: If there has been any action of that sort I did not know of it.

Commissioner McManamy: I understood you to say that you tried to get these divisions adjusted by negotiation.

Mr. Towner: That was with respect to the Trans-Continental division.

Commissioner McManamy: No such effort has been made with respect to these divisions?

Mr. Towner: I should not say that; perhaps I am justified in saying, though it is not in the record, there was a conference held in Washington before Examiner Disque and Mr. Woodlock at which was some effort made to reach an agreement; that meeting was not a part of the record but it was official in character and everybody interested was represented. We got nowhere in the meeting and there were subsequent conferences between the lines which led to nothing. We got nowhere. The Southwestern Lines insisted that nothing be done and we thought something should be done. That is the way the matter was left. So, to that extent, there were efforts made to settle this case and I would also point out to the Commission that during the course of the hearing I offered to arbitrate the case with the Southwestern Lines in any fashion that they wished to do it in order to avoid putting the matter up to the Commission and retaining to some extent at least jurisdiction over a thing that we should take care of ourselves and that offer was refused. The reason given for the refusal was that I would not announce before they signified whether or not they would arbitrate what I wanted. I could not see any point in announcing that. At that time, as a matter of fact, I did not know and I preferred to see what the record would show as to what we wanted. But it fell through.

Commissioner Meyer: You wanted increased division, did not you?

[fol. 1680] Mr. Towner: Exactly, yes, sir, and we agreed if the Southwestern Lines would do it to submit the question

whether or not we wanted increased division to arbitration; that is, of course, if that action were satisfactory to the Commission. Everything we did were subject to your Honors' approval of course. It suggested to me a means of settling the case without going ahead with the record and bringing the case here.

Commissioner Meyer: Could not you have suggested as to why you ought to get these increased divisions at that time?

Mr. Towner: No, not at that time. At that time, Mr. Commissioner Meyer, the record was not made and I did not care to be in the position of announcing beforehand that I thought we were entitled to these things, to this that and the other thing, when the evidence put in might lead me to the conclusion that something else was desired.

Commissioner Meyer: As far as you are concerned, if you think you ought to get increased divisions, you should be able to point out where you would get them.

Mr. Towner: That would be the evidence before the arbitration and was the evidence in the record. It covers all these matters.

Now, there are a number of objections to the report that were outlined in the exceptions that we filed. An answer was filed to the exceptions and it is of course impossible to deal with all these matters in the limited time that we have here and perhaps it is not necessary anyway; some of them are not so important. I should say this before I start, however, before starting to talk about these exceptions: that when we finally came to the Commission in the form of briefs, or a suggestion that these divisions as between the Western Trunk Lines and the Southwestern Lines be put on a straight mileage pro rate with the possible exception of certain traffic that moves through Western traffic line territory to and from Eastern territory—I would say [fol. 1681] that with that exception I can see no reason why a mileage pro rate is not

Commissioner Eastman: We have this Western Trunk Line class rate at the present time. That has already been determined for the Southwestern and we really determined what divisions you ought to have; naturally we know what the relative levels of the local rates of each territory should be.

Mr. Towner: The local class rates?

Commissioner Eastman: Yes; we have done that in the Southwest. Assuming we do that in Western Trunk Line territory, would it not be then logical to divide the rates by approximate rate pro rates?

Mr. Towner: I did not know that that method of fixing the divisions was advocated in the West or as affecting the Southwestern Lines in this case.

Commissioner Eastman: On the basis of the present class rates, I assume.

Mr. Towner: On the basis of the present class rates—I was opposed to that.

Mr. Davis: That is not correct. We just showed the rates in the two territories. We only showed a general rate level.

Mr. Towner: I am not speaking of what the lawyers advocated but what the witnesses did.

At any rate, a great deal of evidence was put in the record on the subject of rate levels North and South. With respect to your suggestion: the only thing that occurs to me immediately would be with respect to that, that it would require a very considerable delay. I take it it would require the withholding of the decision in this case until the Western class rates case was settled and decided and for a further period to see how it worked out.

Commissioner Meyer: Is it possible to determine the basis of the division irrespective of the level of the rates? [fol. 1682] Mr. Towner: It is more or less difficult. We made this offer in our brief and I make it again now: we are not agreeable to any sort of a rate pro rate that is based on the class rates North and South as they existed at the time the record was made, but we will settle the case now with the Southwestern Lines by making a rate pro rate using the rates North and South of the junction—the point I mentioned was a rate pro rate of the revenue, using as factors North and South of the junction the rates now in effect——

Commissioner Eastman (interposing): You mean the local rates North and South?

Mr. Towner: Yes; there was objection to that by the Southwestern Lines at the time the proposal was made because in Western Trunk Line territory we had some local rates on class bases, more, in fact, than they did. We have

class rates, local rates to and from those junctions which, as a matter of fact, are used considerably.

Commissioner Eastman: They are relatively quite low as class rates?

Mr. Towner: Yes, rather low as class rates, but as compared with commodity rates either North or South they are relatively high.

Now, getting back to the exceptions that we filed, if your Honors please: most of these divisions, at least the merchandise per cents have been in effect many years, since the early part of the Nineties. There are two major exceptions to the method of fixing the division: the oil division from Oklahoma as far as Kansas City was fixed in 1916 as a result of arbitration between Western Trunk Lines and Southwestern Trunk Lines, the arbitrator being Mr. Boyd, Chairman of the Western Trunk Line Committee. The testimony in the case shows that this was an arbitration. The lawyers in the case deny that it was an arbitration. I do not know whether the witness is right or whether the lawyers are right, from the Southwestern standpoint, but [fol. 1683] the record shows it was an arbitration. The answer that they make to the statement that it was an arbitration is this: this is from the reply brief of the Southwestern Lines at page 64 and this is the statement: "It is true that on October 6, 1916, the question of divisions was referred by that Committee to Mr. E. B. Boyd, Chairman of the Committee, with authority to establish divisions effective October 1, 1916. While the Missouri-Kansas-Texas, St. Louis-San Francisco, Kansas City Southern, and Mississippi Pacific were represented at one or more of the meetings of Western Trunk Line Committee that preceded the referring of such matters to Mr. Boyd, they were present at such meetings in their capacity as members of the Western Trunk Line Committee, not as Southwestern Lines. The record is clear also that the divisions as fixed by Agent Boyd of the Western Trunk Lines Committee pursuant to the authority conferred upon him were highly satisfactory to the three members of the Southwestern Lines, the Missouri-Kansas-Texas, Frisco, and Kansas City Southern. They were connected (contested), however, by the Rock Island & Santa Fe, also members of the

Western Trunk Lines Committee with lines of their own direct on the oil fields in the Western Trunk Lines territory, and this action by those two lines has actually forced the exception to the so-called arbitration by the Kansas City Southern, the Missouri-Kansas-Texas, and Frisco. The record is clear that there never was a joint consideration or arbitration of the matter in dispute by the representatives of the Western Trunk Lines Committee and the Southwestern Committee. The matter was handled entirely within the Western Trunk Lines Committee and the three Southwestern Lines who were dissatisfied with the decisions as fixed by members of the Western Trunk Line Committee, they were but a small minority of that committee, and it is clear that they were unable, in view of competitive conditions to do other than accept the divisions as [fol. 1684] fixed by the Chairman of the Western Trunk Lines Committee. This instruction, however, was not until ten months after the so-called war, and they were influenced by the ability of the lines operating to St. Louis in making agreement with the Chicago & Eastern Illinois, which accorded them slightly more favorable decision on the oil traffic that via the Kansas City gateway. The result of that arbitration—it was an arbitration; at least I think it was—was that the Western Trunk Lines division for the Oklahoma oil were substantially increased. They are a little less at the present time than the mileage pro rate that I have asked be applied to all of the traffic. They are so close to it that we are satisfied with those divisions. On the other hand, the Southwestern Lines are not satisfied as indicated in their brief.

Commissioner Eastman: That is the most important traffic involved?

Mr. Towner: Yes, I think it is the most important traffic involved and lumber comes next. These divisions, Mr. Eastman, apply only on Oklahoma oil via Kansas City. This agreement did not extend to Arkansas, Louisiana or Texas oil and, from Texas particularly, the oil which has become steadily increased in its movement, moves on the old 35 per cent. The lumber which perhaps is and unquestionably is the next most important commodity also gives to the Western Trunk Lines much higher revenue than they

get on any other traffic except the oil. Part of these divisions, that is to say the division via East St. Louis to territory west of the Mississippi River was fixed by this Commission. That is what the witnesses testified to. To the territory East of the Mississippi and Illinois via St. Louis, these divisions were settled and agreed on between the interests as late as 1924. Those are the last major divisions made on the Western Lines on the one hand and the Southwestern on the other. The oil divisions were [fol. 1685] fixed in 1916. The lumber divisions were fixed in 1924. Now, both of these sets of divisions give the Western Trunk Lines only a trifle less than the mileage pro rate which I have been asking for on the other traffic; the difference, however, is so slight that we are satisfied to have them remain as they are.

Commissioner Eastman: On the bulk of the traffic, you are satisfied?

Mr. Towner: We are satisfied to the extent that Oklahoma oil via Kansas City only and to the extent that lumber is concerned, the divisions are satisfactory to us. That does not apply to any other oil than oil moving via Kansas City.

Mr. Muckley: Is that true to all points?

Mr. Towner: I do not know of any exception. I know it is true to St. Louis. The witnesses who testified testify as I have said with respect to the oil arbitration, that being an arbitration before the Chairman of the Committee which had for its membership not only the Western Trunk Lines but the Southwestern Lines. I do not know what presumption of propriety attaches to that arbitration, but it should be presumed that it took into consideration all those factors that should be taken into consideration in fixing these divisions and presumptively, at least, they are right.

Commissioner Taylor: Does this same principle governing the *the* lumber and oil if made general, would that be satisfactory to you?

Mr. Towner: Decidedly so. It would mean less to us than I have asked for and what I think we are honestly entitled to, on the mileage pro rate, but it is so close to that figure that it would be agreeable to us.

Commissioner Taylor: Do you think of any reason why they should not apply to all traffic—that was agreed to voluntarily, was it not?

[fol. 1686] Mr. Towner: No, I cannot think of any reason. There is a peculiar thing about the lumber. The witnesses for the majority of the roads hauling the Southwestern lumber to and from St. Louis where most of it moves expressed themselves as being entirely satisfied with present divisional bases on lumber. Their lawyers did not agree with them. The witnesses on the record say the divisions are all right. The lawyers on the record say they are all wrong.

Mr. Larimore: You are mistaken about Kansas City.

Mr. Towner: I did not include Kansas City. Your road attacked the divisions to and from Kansas City on lumber. Here is what the witnesses said: Mr. Layman, of the St. Louis, Southwestern Road, who was in charge, I presume, of the lumber division——

Mr. Outlaw (interposing): That is not exactly correct,

Mr. Towner: Well, I will withdraw that.

Commissioner Meyer: Was the witness duly sworn?

Mr. Towner: Yes.

Commissioner Meyer: Then you may proceed with your argument.

Mr. Towner: He testified at page 5404 of the record that in his opinion the proper basis of division to allow all lines North—let me correct myself, he testifies that the lumber basis via East St. Louis is in his opinion the proper basis of division to allow all lines North of East St. Louis and at page 5951 of the record he expresses himself equally favorable in the matter.

Commissioner Eastman: Are these oil and lumber divisions on a percentage basis,

Mr. Towner: Yes, they are; they vary; I think they vary so much with the length of the haul the destination and the territory although I cannot indicate at this moment or undertake to say verbally what they are.

[fol. 1687] Commissioner Eastman: Could they be applied to all other traffic easily or is it a difficult matter?

Mr. Towner: I do not see why they could not have been applied successfully.

Commissioner Woodlock: The lumber divisions were not based on the mileage per cent.

Mr. Towner: The lumber divisions are on a rate pro rate of the lumber rate North and South, substantially. As I recall the record, and these gentlemen will correct me if I am wrong, but as I recall the record they were formed by combining the rates North and South; the first through rate was substantially the same as the combination of the local rates. When the through rate became lower than the local, substantially the same basis or policy was followed as to dividing the rates. Due to that fact, it is purely accidental that the lumber division approached the mileage pro rate. I do not know what Mr. Boyd took into consideration. I assume he took everything into consideration, including, mileage, and so forth, and as the mileage divisions are less than mileage pro rate there was brought about a rate closely approximating it. The divisions on the two classes of traffic are the major changes made in the last fifteen years in all commodities.

Commissioner Lewis: These two classes are the most important, are they not? What percentage of the tonnage do they represent?

Mr. Towner: I have no segregation of the oil except via Kansas City but all oil or lumber would constitute about 80 per cent of the traffic.

Mr. Outlaw: The oil and lumber traffic is approximately 170 per cent——

Mr. Towner: A little less than 80 per cent.

Commissioner Lewis: There is left here about 30 per cent of the total.

[fol. 1688] Mr. Towner: More than that. These figures I give you include all the oil whereas all the oil that moves under the division is the Oklahoma oil via Kansas City.

Commissioner Lewis: Let us have the percentages eliminating the Oklahoma oil and lumber.

Mr. Towner: Perhaps I can get those figures for you before the close of the session.

Commissioner McManamy: Do you know what percentage of Oklahoma oil moves through other gateways than Kansas City?

Mr. Towner: The major portion moves through Kansas City. I do not know what the percentage division would

be as between the gateways, but the major percentages moves through Kansas City.

In the time I have left, I wanted to bring to the Commission's attention certain specific objections I have to this report.

First, the Examiner finds on Sheet 10 that 70 per cent of the traffic moves to or through the State of Illinois where traffic density is greater than anywhere else. I have no quarrel with the 70 per cent figure. I assume it is correct. The statement is made and is based upon figures in the record so, I assume it is correct. But, what has been done is this: they have taken all of the Western traffic or rather all of the Western Trunk Line territory and considered it in the aggregate. Look at the map. It will indicate that via Kansas City a very considerable portion of the territory is served by the Western Trunk Lines that never gets into Illinois. For example: the territory in Missouri gets practically all of the Iowa territory and, I made the general statement that a lot of this traffic did not go through Illinois, and I was criticised for that in the reply brief when they cited that about six cars of the Kansas City traffic goes through there. But it is safe to say that practically all of the traffic in Missouri and Iowa and Minnesota, at least on the lines that would make the rate, [fol. 1689] does not move through Illinois at all. I submit, in fixing the divisions, taking into consideration the density North and South, and the average haul, that consideration should be given to the fact that the Kansas City lines do not operate as a matter of fact through a higher density North of Kansas City than they do south. There is that in the record.

Now, if density is to be the controlling thing, certainly on traffic via Kansas City North, there is nothing in the density at all that justifies anything other than the mileage pro rate basis. Via St. Louis practically all of the traffic moves to Illinois or Wisconsin which are the two highest density States, but the average haul, as I recall it, on all of the traffic that moves in October and June of which statistics were made moves via St. Louis, moves an average of 271 miles which is 8 miles less than the short line distance from St. Louis to Chicago. The point of the argument was this: that if Kansas City where there is no fea-

ture, no consideration that justifies anything else than a mileage pro rate, the lines that reach Kansas City and serve this territory are entitled to the advantage of their situation toward the lines extending from Kansas City to Minnesota via St. Louis for you have a set of lines that serve Illinois—for instance, the Burlington Line in particular. There are other lines as well with which the Commission of course is familiar. Perhaps they handle the bulk of this traffic via East St. Louis, but these roads, with respect to all of the traffic handled only haul 271 miles North as against 540 miles South. Any element that these roads find entering into their figures because of higher density in Illinois is overcome by the exceedingly short haul. Take in Texas, for example, on this traffic haul to Chicago to the other end of the State: we get 20 per cent which is less than most of the minimums which apply. We get less than that.

[fol. 1690] Commissioner Taylor: Your 80 per cent covered traffic via Kansas City or crossings?

Mr. Towner: It would cover all the other crossings.

Commissioner Taylor: So, the traffic is material. Do the divisions cover it in both directions?

Mr. Towner: In both directions.

Commissioner Taylor: So, we are concerned only with respect to about 20 per cent of the traffic?

Mr. Towner: The traffic to be considered is more than that for this reason: that the oil on which the divisions had been fixed was only Oklahoma oil moving via Kansas City. There is a considerable volume of oil that moves to Texas, Arkansas and Louisiana via both Kansas City and St. Louis.

Commissioner Towner: And

Mr. Taylor: And a

Commissioner Taylor: Is that satisfactory to Kansas City or not?

Mr. Towner: It is not.

Commissioner Towner: It is not?

Mr. Towner: It is only via Kansas City that the division is satisfactory on the Oklahoma oil only.

I submit to the Commission that separate consideration should be given this contention: the Southwestern Lines

have been advocating, and the Examiner has followed them, in holding that the whole thing should be grouped as a whole. He has gone to work and taken the whole territory. It may be true that seventy per cent of the traffic sometimes moves into Illinois, but when you consider the gateways separately and as they should be considered; that situation is completely answered and I should and do submit that that is the way the thing should be considered.

Commissioner Eastman: Are you asking for any consideration on account of financial disability?

[fol. 1691] Mr. Towner: Yes, sir, I am. On the density figures.

Commissioner Meyer: You will watch your time and reserve whatever you wish to reserve for your answer.

Mr. Towner: I have been pretty thoroughly burned up in the reply brief and I do not know that we could or that I could treat it in any oral argument that might be made.

Commissioner Meyer: Perhaps that is the reason we should hear your argument.

Mr. Towner: I think, though, that I will go right ahead to the extent that I am able to cover the territory. Whether I can cover the whole matter in my oral argument or not I do not know, but I have submitted to you quite a brief. There is a good deal of material in the briefs that is not worth reading——

Commissioner Myer (interposing): You mean the brief on the other side, of course?

Mr. Towner: Oh, certainly. You will find, if you take the good material, that everything is covered.

I did not want to talk about density, however, because I have an offer to make with respect to that: the Examiner has followed and used the State density figures. Perhaps he is right. I do not think he is. I favor the method of using the density of the lines of respondent but the point is that the figures apply to all carriers, but the State figures should be taken. He has found the density in Western Trunk Line territory is greater than in Southwestern and by a substantial percentage, including Illinois. He concludes with respect to that point, however, by finding that in the near future (if) the present ratio increase of den-

sity in Southwestern territory continues the density will be on a parity. The last figures put in the record were for individual lines as of 1925.

[fol. 1692] There were no State figures available at the time the hearing was closed for 1925 and there were none for 1926. I was uncertain of the propriety of doing it, but I put in my exceptions the statement of figures of 1925 and of 1926 density and added to it a statement; I intended to ask the Commission if I might submit those figures. They are standard and I did it so that I could give my adverseries notice of what I intended to do. We have prepared figures—Mr. Parsons who prepared them is prepared to ans-er any questions that may be asked with respect to them. The figures were gotten up by a Bureau to which my opponent belongs as well as my own line, and inasmuch as it related to such important matter I thought the Commission might desire to make it part of the record and, while I do not understand it is proper to submit this in argument, I have the figures and I assume that Mr. Outlaw and Mr. Muckley will have no objection. I put the statement regarding them in the exceptions for that reason.

Mr. Muckley: I will continue any objection that I have to additional evidence for 1926 alone unless we have the evidence similarly for 1927. I do not want the record to show any particular change of one year. If we open the case we should look into all the conditions, such as the consideration of the flood catastrophes of the Southwest and I would like that considered.

Mr. Towner: We would have been glad to put in the 1927 figures but I was advised that they were not available.

Commissioner Meyer: We will give consideration to these suggestions. For the present, please, proceed with the argument.

Commissioner Eastman: Can the parties agree that the Commission can refer to reports on file filed by the various carriers up to date instead of depending on the old records?

Mr. Towner: As far as I am concerned I am willing to make that stipulation that the annual reports of all the lines [fol. 1693] may be referred to by the Commission for such information as it wishes to get from them.

Commissioner Meyer: Do you agree to that, Mr. Outlaw?

Mr. Outlaw: It places me in an embarrassing position. Of course when you refer to these matters often use is made of them and they are used in such a manner that, without explanation, they might be susceptible of different interpretations. When you can explain the use to be made of them and what interpretation is to be made of the statements, it is a different matter. Therefore I dislike to do it but as long as the Commission asks for it I will agree to that.

Commissioner Meyer: Such reference may be made to them?

Mr. Outlaw: Under the circumstances, yes.

Mr. Towner: My time is rather short. In my remaining six or seven minutes there are a few things I want to refer to:

First, there is the question of the absorptions and other incidental expense of the Western Trunk Lines and this traffic, an important item. We put in exhibits showing our expense on this traffic as well as the Southwestern Lines expenses. We had a check of all the traffic that moved in June, 1924, and the Southwestern Lines had a similar check made for October, 1924. We took our figures in June, 1924 and showed only the terminal expenses—now, I do not mean by that, general expense, but I mean out of pocket payments that we made on that. That is, we took all the maximum haul of 271 miles North as against 540-some miles South, and the result was this: that of all the cars handled between St. Louis and Chicago in that month, for these four lines, the lines North of East St. Louis paid out $14,400 and the Southwestern Lines $6,475, slightly less than 50 per cent. We subsequently put in a more detailed statement of these facts and carried it out a little further with regard to these figures and included 1292 cars. There was some sugges- [fol. 1694] tion that possibly the switching at Chicago was accrued on the lines of other respondents but out of the total of absorptions, we had over $9500 that was paid to purely terminal switching lines in Chicago. That means that we got 20 per cent North of East St. Louis on the Texas oil, for instance, to Chicago, which is less than the minimum of 25 per cent uniformly applied in the territory. We hauled a maximum distance of 278 miles to Chicago and absorbed this amount both at Chicago and East St. Louis.

There is nothing left after you do that. That is exactly the situation. I do not know any way to get out of it. The Commission is familiar with the terminal facilities at Chicago. The only certain thing about it is that there is no profit.

Commissioner Taylor: These figures were 278 North of St. Louis and 540 South?

Mr. Towner: Something like that.

The other thing I wish to refer to in the few moments I have left was the conclusion of the Examiner with respect to the financial situation. That is the thing that Mr. Commissioner Eastman referred to. The Examiner finds a number of things. He first refers to the decision of this Commission in the revenues in Western districts, 113 I. C. C., at Sheet 22, and refers to that statement where it was said that the book values of Southwestern regions are much less concervative than those of Central West and Western regions. He adds his own comment whether this may be fairly used against the defendant here. That is all he says. At the bottom of the sheet, 22, he says: "If we select the carriers that would be most benefitted and those that would be most injured by the readjustment, or in other words those that perform most of the transportation, namely the principal Chicago-St. Louis-Kansas City lines, on the one hand, and the prominent Southwestern lines on the other, [fol.1695] the disparity between the financial strength of the two groups as judged by the rates of return, is rather substantial." Then he appends a table which shows that to be the truth. His conclusion with respect to that feature however is this: "Consideration of groups or averages, are often misleading. The revenue which a mileage pro rate would turn to the Western Trunk Lines would go to the Chicago, Burlington & Quincy, Illinois Central and Wabash perhaps as much as it would to the weaker lines, namely the Chicago & Alton, the Chicago & Eastern Illinois, Great Western and Chicago, Milwaukee & St. Paul. This situation argues against a change in divisions for financial reasons. Transfusion of revenue would be undertaken for strengthening weak carriers only in extreme case and only as a last resort." I do not quite follow that reasoning. As a matter of fact, as the Commission knows and the

public records show in your New England division case all the roads up there were not earning the same amount of money. It was the group as a whole that was considered by your Honors and that is all I ask either the Examiner or the Commission to do here and, when you consider the group as a whole, there is no question where the financial strength lies. There are three lines in the Northwest under what might be termined the neutral classification rate.

Commissioner Taylor: Just what does that neutrality mean? Does it mean that the Rock Island wants to hold just what it has or is indifferent?

Mr. Towner: The Rock Island has not said anything in this case. They entered an appearance at the first hearing and—I see the light has flashed.

I have said all I want to say anyway.

There are a great many matters that the Commission should give consideration to and that I would like to call your attention to particularly, but all I ask you to do is to [fol. 1696] give attention to the very able brief that has been filed.

Commissioner Taylor: You allowed 20 per cent beyond St. Louis. On a strict pro rate you would have 34 per cent?

Mr. Towner: If 34 per cent is the right figure, that is true.

Commissioner Taylor: You think you ought to have 34 per cent?

Mr. Towner: Whatever the mileage basis is.

Mr. Outlaw: You said Texas mileage was 534——

Mr. Towner (interposing): I am not sure that I said that——

Mr. Outlaw (interposing): Texas mileage on Texas oil is greater than 540 miles.

Commissioner Taylor: He stated that merely as an average.

Commissioner Meyer: Now, Mr. Outlaw.

Argument of Mr. R. B. Outlaw on Behalf of the Southwestern Lines

Mr. Outlaw: I appear on behalf of the Southwestern Lines. Mr. Towner in his opening statement made a point against the finding of the Examiner that this was a general

investigation and the finding was apparently wrong, merely that there was nothing in the record to justify large transferenee of revenue from the Southwestern Lines to the Western Trunk Lines and what have you to indicate that there is some difference between a general investigation and a complaint case. I think the Supreme Court very definitely in the Orient division case held that the nature of a general investigation could in no way be altered by the fact that it was a general investigation and not a complaint case and in that proceeding where there were hundreds of thousands of dollars, and in this case where are many millions of dollars involved, the rights of those parties should not be violated and sums transferred except on sound evidence it [fol. 1697] is justified, and that is in the record. That is the foundation of the Examiner's findings. There is nothing in the record here justifying the transferrence of money.

Commissioner Meyer: You have missed the point, I think. Are we permitted to stop short until we are able to say whether they are right or wrong?

Mr. Outlaw: I think your duty is complied with. There is a comprehensive record and the finding of the Examiner based on that record.

Commissioner Meyer: If this record is as complete as it should be should we not conclude it by finding that the divisions are right or wrong?

Mr. Outlaw: I think as to that it is merely a question of verbiage. The statement of the Examiner finds that the records justify the divisions as they are today. I think it is correct and supported by the record and I will endeavor to show you in the limited time we have why we think he is right.

Commissioner Meyer: He used the form that we are all familiar with and which this Commission sometimes adopts: "The plaintiff has not borne the burden of proof."

Mr. Outlaw: Whether the plaintiff has borne the burden of proof or not, the fact is that both parties have put in a very comprehensive record, a large number of exhibits, and have briefed the case. I think the findings of the Examiner are fully supported by the record.

Commissioner Meyer: Your contention therefore would be that these findings might well be modified to say instead

"Not shown to be unreasonable" to say that "they are shown to be reasonable."

Mr. Outlaw: That they are shown to be reasonable and the evidence will support such a finding.

The divisions between the Western Trunk Lines territory [fol. 1698] and the Southwestern territory, through the gateways involved here, as stated by Mr. Towner, varied in a number of cases. They are complex. They are many and it is almost impossible within the scope allotted to us to discuss these individual divisions. The only one he referred to was the 30-70 and the 20-80, North and South, Kansas City and St. Louis, respectively on traffic from common point territory to the Chicago group. However, it has been our contention that the aggregate result of the divisions should be considered and that I would like to put before you:

In this record a study of all of the traffic interchanged for June, 1924 was made by the Western Trunk Lines. A similar study of all the traffic interchanged, during October, 1924, was made by the Southwestern Lines. These exhibits have been consulted and at page 78 of the record, 78 of the Southwestern Lines brief, and show that upon all carload traffic the ratio of ton-mile earnings to Southwestern territory of the Western Lines is 112.4 per cent and that includes traffic that moves on the merchandise per cent and specific commodity percentage.

Commissioner Eastman: Car mileage earnings?

Mr. Outlaw: No, ton-mile.

Commissioner Eastman: What is the average length of haul in both cases?

Mr. Outlaw: The length of haul in both cases is not very greatly different. The average haul for the consolidated two months in Western traffic line territory was 367.8 and in Southwestern territory 452.3 miles in the average haul. On all that traffic there was a difference of 12 per cent in the earnings in favor of the Southwestern Lines.

Mr. Towner: That is not correct; when you take the difference, it is 24 per cent.

[fol. 1699] Mr. Outlaw: The Southwestern Lines earnings were 112 per cent in cases of a mileage pro rate and the ratio of earnings to a straight mileage pro rate was roughly 131 per cent, that is, there was a constructive mileage of

131 per cent for each one mile North. That difference, the Southwestern Lines contend, is not sufficient in view of the actual difference in the two territories.

Mr. Towner has asked for a mileage pro rate but he has set forth no reason for comparison of territory as to why that should be. We will endeavor to do it and show that the present difference in Southwestern Lines is not sufficient.

Now, that 112 per cent in the case of mileage pro rate as effecting Southwestern traffic, covers all traffic. On the lumber traffic, the mileage pro rate is only 103 per cent and on the oil traffic the mileage pro rate is only 106 per cent. As I stated during Mr. Towner's argument, the percentage of ton-mile on oil and lumber to other traffic is 170 per cent, so, on practically the greater part of the traffic the earnings of Western Trunk Lines are approaching the mileage pro rate. Mr. Towner endeavored to make the point that the earnings upon the merchandise traffic be divided on merchandise percentage, be measured by the oil and lumber figures because they represented the voluntary action of the Southwestern Lines or were the result of arbitration. I do not think that is true. He spoke of arbitration, of oil arbitration. We rely on the record there. The facts are that the reference to Mr. Boyd, Chairman of the Western *Trunk Lines Committee, as an arbitrator, was by the West*ern Trunk Lines and not by the two lines. As he pointed, there were three Southwestern Lines but they were present in the capacity of Southwestern Lines and vigorously opposed the percentages proposed by Mr. Boyd and in fact it was a year after that arbitration before that was made effective and, through comeptitive influence, the Santa Fe [fol. 1700] and the Rock Island and the other lines were forced in. We earnestly submit that that was not an arbitration.

Commissioner McManamy: The Examiner's report shows on all other carload freight the ton-mile earnings on Southwestern Lines are more than double that of the Western Trunk Lines to and from every State except Louisiana. Do your figures correspond with those? Is the reason yours are different due to the relative volume of traffic?

Mr. Outlaw: The figures in appendix No. 1 are for June, 1924. The figures that I give you are consolidated, June and October, 1924.

Commissioner McManamy: Are they on a comparable basis?

Mr. Outlaw: I think they are on a comparable basis and that slight difference can be explained.

Commissioner McManamy: I thought the difference was substantial.

Mr. Outlaw: Sir?

Commissioner McManamy: I say I thought that the difference was substantial instead of slight, as you say it is.

Mr. Outlaw: What was the figure that you referred to?

Commissioner McManamy: I was referring to the figures as applied to and from Missouri to Western Trunk Line divisions per ton mile and those figures show that the carload figure is 13.66 while the Southwestern gets 31.01.

Mr. Outlaw: Missouri is a short haul territory.

Commissioner McManamy: That applies to all States except Louisiana.

Mr. Outlaw: I think that the matter that the Examiner shows is the same that we show. I think you will find the same result. On all other material except oil and lumber the percentage is higher. You cannot change those per cents without giving consideration to oil and lumber which were considered as inadequate. We are rather willing that the interchange of the aggregate be considered. We be-
[fol. 1701] lieve it is probably a little lower for the Southwestern Lines and is proper. We do not wish, however, to go into that any too deeply and we are willing to let them remain as they are. You cannot change the one volume of freight unless a corresponding change be made in oil and lumber.

Commissioner McManamy: Whatever changes are made would have to leave the situation as it is now?

Mr. Outlaw: That is our position and whatever changes are made would have to leave the revenue the same or accord the Southwestern Lines a little more.

Mr. Towner: Would the Rock Island, and the Santa Fe desire an increase on the division of Oklahoma oil to Kansas City?

Mr. Outlaw: We are in the same position that you are. We have made the agreement and are willing to stand by it.

Mr. Towner: You would not desire the increase for those roads?

Mr. Outlaw: I think those roads were not a party to that agreement. Certainly as far as the Missouri Pacific, the Rock Island and the Santa Fe is concerned, that repudiates the agreement.

Mr. Towner: The agreement was the present division on oil from Oklahoma via Kansas City would remain as is on all the roads.

Mr. Outlaw: On the basis of the 14 per cent increase on the merchandise per cents. Possibly the principal injunction to the Commission in establishing the division contained in paragraph 6 of Section 15 of the Interstate Commerce Act is that they must look at the respective amounts of revenue needed by the carriers to pay operating expenses, taxes, and so forth, and the return on railroad property to be held and used in the service of transportation. That requirement will require first a study of the density of traffic on any two groups. First, because in the absence of any markedly different operating conditions in the territory or traffic conditions in the territory the cost and return and all the other statistics of the railroad will be al- [fol. 1702] most directly reflected by the density of the traffic of the two groups. The Southwestern lines have compared the density of traffic with the Southwestern States where we say that the average density of the Western Trunk Lines States if 184.6 of that of the four Southwestern States, and 174.3 of that of the Southwestern States to, from or through which the Southwestern traffic flows, and that inasmuch as the record shows that 76.83 per cent of the traffic interchanged between the Southwestern Lines and the Western Trunk Lines during the month of June, 1924, originated in, was destined to or passed through the State of Illinois, and that for the month of October, 1924, 66.9 per cent of the interchanged traffic was traffic to, from or through Illinois, a comparison of the respective traffic densities of the Southwestern States passes the States of Illinois, Iowa and Northern Missouri, is pertinent. Northern Missouri and Iowa are used in this comparison because practically all of the Illinois traffic via Kansas City would pass through either or both of those States. For the same three-year period under consideration the traffic density of the three Western Trunk Line states named was 206.9 of that of the Southwestern States of Arkansas, Oklahoma, Louisiana, Texas and Southern Missouri.

Commissioner Eastman: Why should Illinois be considered a part of Northwestern Trunk Line territory?

Mr. Outlaw: We considered only that part in there (indicating on the map).

Commissioner Eastman: The official classification reads, the whole of Illinois.

Mr. Outlaw: I think you have to consider the State of Illinois in this question, particularly as concerns commodities moving from Fort Worth, Fort Worth, Texas to St. Louis, and from Fort Worth to Illinois. The rate is not [fol. 1703] an official rate there. It is published over all the Southwestern Lines and Western Trunk Lines and the condition is present on the Western Lines and Eastern Lines.

Commissioner Eastman: Why not make a separation and put Illinois in one catagory and the rest in another?

Mr. Outlaw: If you could work it out practically we would still be where we are. The point is we are considering everything in the aggregate and giving Illinois its proper place in that aggregate. We followed Mr. Towner's suggestion we would apply the whole condition to the whole traffic and that, I think, should not be. In view of the fact that three-fourths of the traffic is through, to or from Illinois, the Illinois condition would be encountered by most of the traffic and we would probably be entitled to far greater increases from that traffic than we would be required to give increases to Western traffic lines on the relatively inconsequential traffic to other points. We think it far more sensible to consider the group as a whole.

Commissioner Eastman: You say three-quarters of the traffic. Is that ton-miles or what?

Mr. Outlaw: That is on the number of cars handled. From these two interchanged statements we could not get the weight but we counted the cars on them and found for January, 1924, 76.83 per cent of all the traffic was to, through or from the State of Illinois.

Commissioner Eastman: 76.83 per cent?

Mr. Outlaw: Yes. It was either originated in Illinois, reached Illinois, was delivered in Illinois——

Commissioner Eastman (interposing): Even if only a few miles, even if it went only a few miles through Illinois?

Mr. Outlaw: None of it could go only a few miles through Illinois. The only interchange point would be at St. Louis.

Commissioner Eastman: How about this Nemo traffic? Is there not traffic interchanged at Nemo?

[fol. 1704] Mr. Outlaw: That would traverse a substantial part of Illinois if there were any such interchange. That is only an interchange between the Santa Fe and the Minneapolis & St. Paul.

Commissioner Eastman: Is not the fair way to figure this out on a basis of car miles instead of a basis of cars?

Mr. Outlaw: I think it would be all right and would show the same result. We give it as 76.83 and 66.9 in October and June, because it was the only way that we could get at it. We counted the cars relatively and I think if we did it the other way the same showing would be made.

Commissioner Eastman: You have no way of ascertaining that in the record?

Mr. Outlaw: No, there is no way of ascertaining that in the record but we could count the cars and weight that. Now, that is that.

Now, on the basis that the Southwestern Lines use in arriving at their density for an average of the three years, 1922 to 1924, inclusive, the density of the Western Trunk Line group was 184.6 of the Southwestern group, composed wholly of the strictly Southwestern States, Arkansas, Oklahoma and Louisiana and Texas, and 174.3 of a Southwestern group to, through or from which the traffic would flow and to the difference in these groups we added Kansas although that is not a Southwestern State as you defined in the order of the Commission, yet a very great volume of the traffic will flow through Kansas and encounter the conditions prevalent in that State such as the traffic via Santa Fe and the Rock Island in the Southwestern which practically all traverses the State of Kansas. In view of these large percentages of Illinois traffic, at the suggestion of the Examiner, a further comparison of density was made showing only Illinois, Missouri and Iowa as one group and the Southwestern territory as the other and the average [fol. 1705] density was 206.9 of the density of the Southwestern cases.

Commissioner Eastman: What was it eliminating Illinois?

Mr. Outlaw: If you eliminate Illinois from the density, you eliminate all the traffic.

Commissioner Eastman: Supposing you do. What is the result?

Mr. Outlaw: I have not had that before me. I think the density of the Western Trunk Line States would be in excess of the *of the* Southwestern States but the spread would be nearer our position in view of the fact that the traffic in Illinois is the pivotal point in the case and you could not exclude it from the case.

Several criticisms were made of our groupings, as constructed. We used all the Class 1 railroads of both groups but the Western Trunk Lines criticized us for using several of those roads. We showed that the elimination of those would actually increase the density in Western traffic, Western Trunk Line territory, because they had density lower than the average. We also said that by using those roads we used the heavy ore roads——

Mr Towner (interposing): I apologized for that.

Mr. Outlaw: I did not know that.

Commissioner Meyer: The Lake Superior is an ore road; the *T*reen Bay & the Western is not.

Mr. Outlaw: No, it is not. It is in Wisconsin.

Commissioner Eastman: Is there any way of eliminating from Western Trunk Line traffic the density of the Kansas City (Santa Fe), the Missouri Pacific and the Rock Island, the lines that do not want any increase?

Mr. Larrimore: How is that?

Mr. Outlaw: There would be, because the density is maintained; it is possibly available in the record but I am not certain it is.

Mr. Towner: I do not think the individual roads are in; I think our figures were about aggregates and I certainly believe they are accurate.

[fol. 1706] Mr. Outlaw: It could be done, but I do not think it is here in the record.

Mr. Towner: It could be done. We put in exhibits showing the density by States on lines of each of the individual respondents.

Mr. Outlaw: I believe there was such an exhibit made by Mr. Parsons. Of course our answer to such a suggestion is, Mr. Commissioner, that whether the issues or where the issues have been defined in this case, the controversy here is as between group and group and the Atchison, Topeka & Santa Fe is just as much a part of the Western Trunk Lines

group as any other road and the condition on that line goes to make the condition of that territory as much as does the condition on other lines and goes to affect our condition, possibly a little more favorably than the weaker road would do but that is no reason to throw out the State as a whole from consideration.

Commissioner Eastman: There is nothing, nothing in the order of the Commission that compels the Commission to put it in that way? Is there?

Mr. Outlaw: Why, I think so, your Honor. You have instituted an investigation of all divisions on all traffic from all lines originating on all lines within two geographical groups as defined by you.

Commissioner Eastman: Is there any reason why we should not arrive at the conclusion providing for an increase of the division of the Santa Fe and the North Trunk lines even though there is no justification for an increase, for example, on the Chicago Great Western?

Mr. Outlaw: On this traffic, I do not quite understand you. How would it be applied? The Santa Fe would get all the business if you did that at the gateway and so would the other lines his divisions would not be increased.

[fol. 1707] Commissioner Eastman: Apart from the competitive situation of that kind, such as you mentioned, which would compel a fixing of an equality basis, how about the instances where we find a situation which is not involved in such competition?

Mr. Outlaw: If that is the thing you are seeking to do, Mr. Commissioner, I must firmly fear that this procedure is not the one drawn to do it, nor the investigation instituted along the proper lines. If you have in mind only relief to the Chicago Great Western, the Chicago Northwestern, the Missouri (Minneapolis) and St. Louis and weaker lines in Western Trunk Line territory, the thing to be done would not be done through an investigation of all divisions of all traffic within three or two groups but through an investigation of the division between those lines on which that traffic moves.

Commissioner Eastman: There is nothing in the issues that would prevent us from finding, if the record so shows, that certain divisions are right and that certain divisions are wrong and ought to be corrected.

Mr. Outlaw: There is nothing in that. I doubt whether the record would justify a finding that certain divisions by the Rock Island are wrong and the same divisions by another road in a stated haul were right.

Commissioner Eastman: The Supreme Court says that we can take into consideration the financial condition of the carriers.

Mr. Outlaw: I think that may be done, but you would do it in a proceeding of another character and if that were done you would have before you not merely the divisions of the Southwestern Lines but the divisions with the Trans-Missouri Lines and the Northern Lines and the Eastern and the Southern connections, and all lines in the United States with which they are connected, and there would be a study of the traffic involved in that just as you did in the [fol. 1708] Orient and other cases like it. If, however, your proceeding takes another form, whether you call it a general investigation or a complaint case, or what, and if the substance of that proceeding is of the sense that the Illinois Central, the Chicago Burlington & Quincy, the Atchison, Topeka & Santa Fe and the Rock Island are here before you as well as the others asking for an increased revenue at the gateway, Kansas City and St. Louis, out of the revenues of the Southwestern Lines, then I think in justice and equity the other thing you can consider is the average condition in the Western Trunk Line group and on the Chicago, Burlington & Quincy, the Atchison, Topeka & Santa Fe, the Rock Island and the Illinois Central, as well as the other lines. That should be contrasted with the average conditions on all lines in the other group, both strong and weak, looking at the same trunk lines in the Southwest; that is quite obvious. There is the case of the Oriental Lines. The Southwestern Lines, with no help from the Western Lines, are contributing increased divisions to those, perhaps far out of proportion to what those divisions would be measured purely by traffic. If such a burden has to be carried by another territory, let it be carried by the lines in that territory. But that is not the proceeding before this Commission. If, as a matter of fact, there is any increase in the division, the Atchison, Topeka & Santa Fe, the Chicago, Burlington & Quincy, the Illinois Central, will profit just as much if not more from this increase. The group has to be considered.

Now, we pointed out that in that connection it was not exactly what it should be. We intended to speak of it. For the month of June, 1924, the interchange figures prepared by the Western Trunk Lines themselves show that the heaviest interchange line with the Southwestern Lines was the Illinois Central and there were 2,902 cars interchanged between that line and the Southwestern Lines and the Chicago Great Western, one of the most active of the [fol. 1709] plaintiffs in this case, in the same month, had only 670 cars, less than one-fifth of what went to the Illinois Central. Therefore, we will conclude that the Illinois Central will profit five to one from anything that you do. If you make this group a group case, then that road ought to be in it.

Commissioner Taylor: Your position under this procedure is that no matter what the facts are we cannot reach a conclusion to transfer one set of revenues from one line to another?

Mr. Outlaw: I hardly say that. You find the condition from the facts, from actual traffic and other reasons where that would justify the transfer.

Commissioner Taylor: I know that.

Mr. Outlaw: The Illinois Central division——

Commissioner Taylor (interposing): But even if it was a situation of that kind, you would not agree with the mileage basis or the basis of the division from revenue of oil and lumber from Kansas City was the proper basis on which to divide all the traffic?

Mr. Outlaw: Oh, no, sir. Our position is that the present division of revenue in the aggregate is such that we are willing it be continued. We think it is not quite fair to us but we are willing to let the case stop where it started.

Commissioner Taylor: You do not think the division on oil and lumber via Kansas City should be accepted as a basis?

Mr. Outlaw: I think they carry absolutely no presumption of reasonableness.

Now, one further remark in connection with the density of traffic and the question of the weight that must be given to the whole density. In the original brief and argument today, Mr. Towner refers to the shortness of the haul in Illinois. In that connection we are prepared to show that the weighted average density between representative South-

western and Western Trunk Line points that is set forth [fol. 1710] at page 21 of the Southwestern Lines brief and also in the Examiner's report—I have not the page of that—is correct. Substantially what we did was to take the Santa Fe as a representative line from Fort Worth to Kansas City and I think that is truely representative. It is not the heaviest density nor the lightest. We took the system mileage of each State and weighted that according to the length of the haul in that State and arrived at a figure giving the average density. Similarly comparisons were made and I won't stop at this time to discuss them. There is nothing to this point of shortness of haul in Illinois. If we were to weight the haul in Illinois on the majority of traffic, we would find it would increase the percentage of group density. That is largely because of the fact that the majority of traffic is to, through or from Chicago will give its maximum haul through Illinois.

Commissioner Eastman: Would there be difficulty in separating the traffic to the Twin Cities and Iowa that does not go through Illinois?

Mr. Outlaw: I think there would be considerable difficulty on that. A comprehensive of Witness Bolche's exhibit I think will indicate to you that a good part of it goes through the State of Illinois and very little through Iowa; the greater volume of that traffic will go through Illinois. We did make some study when we prepared the reply brief, referring to the shipments, and that is shown in the exhibit and in the brief and I think from the material in the record a very good and clear study could be made and I am confident that it will show a further reason for giving great consideration to the density of the traffic.

Mr. Towner: Do not roads like the Great Western and the Rock Island trunk lines that do not go through nor into Illinois at all?

Mr. Outlaw: They are in competition with the other lines.

Now, I think the traffic density is materially out of pro- [fol. 1711] portion to the slight variance in the ton-mileage earnings according to the mileage and that the relative earnings of the Southwestern Lines are more than justified.

Now, that traffic density is caused by something and the thing that causes it is the industrial, agriculture and manu-

facturing activity of the population and the population itself. An underlying study of that is necessary in order to explain the per cents of the present density and to form any conclusion, if we may, as to the continuance of that relationship, whether it will be increased or decreased or will remain as it is.

Commissioner Eastman: When it comes to operating expense, does traffic density affect anything but overhead? Does it give the road any advantage except in the question of overhead?

Mr. Outlaw: Of course, it does that. It gives it that advantage. I would say off-hand it affected all the accounts, the actual accounts as well as the overhead. It would affect the train accounts. I do not know if you call that overhead. If you have density requiring 100 cars in a train instead of 25 that would be a matter that would have quite an effect on the road.

Commissioner Eastman: It may be an actual disadvantage when it results in congestion.

Mr. Outlaw: When it gets to that point it becomes a disadvantage.

Now, there is one further thought, your Honors, before I leave the question of traffic density and that is prompted by the question of Commissioner Eastman: Traffic density not only affects directly the overhead costs, but also it affects a margin of profit and these margins of profit necessary on which each individual unit of traffic, in order to pay a proper return on an investment similar, must perform. It is obvious that in a small business you have to have a higher earning on each unit of traffic in order to have a [fol. 1712] proper return than you do on a large business. That principle was recognized before your Honors in the New England division case, 66 I. C. C., 197 where, on page 199 you dealt with the question quite extensively.

Commissioner Eastman: Have you anything in here that shows actual results in operating costs?

Mr. Outlaw: Yes. Developing this investment per ton mile, a study of Exhibit K-124, introduced by the Southwestern Lines, shows for a period from 1916 to 1925, excluding the war years of 1918, 1919 and 1920, that the investment of the Western Trunk Line group was per ton mile of line 5.764 cents while a similar investment of the Southwestern group was 7.351 cents. That was including

the Rock Island and Santa Fe. Excluding the Rock Island & Santa Fe, the investment per ton mile for the Western Trunk Lines 5.381 cents and for the Southwestern Trunk Lines 7.424 cents. In the first case it was 127 per cent and the other one 138 per cent greater in the Southwest than in the Western Trunk Lines.

Commissioner Eastman: Those are book figures?

Mr. Outlaw: Those are, of course, the only figures available, the book investment figures and, in connection with this, I refer to the statement Mr. Towner made concerning the criticism which Examiner Disque levelled at the Southwestern Lines to the extent that he referred to the revenue in the Western district where the Commission said that possibly of the ratio investment to valuation in the Southwestern district was not a conservative basis. Mr. Disque concluded that possibly that should not be used against the Southwestern Lines here. Mr. Towner cannot understand the reason. I can. I believe that the Atchison, Topeka & Santa Fe Railroad has quite a conservative relationship of investment to tentative valuation and so has the Rock Island. Both of these lines have very substantial mileage in the Southwest. Therefore I think the Examiner's reasoning in this matter is quite proper.

[fol. 1713] Now, to go back for a moment to this density and the present relationship being more or less assured in the future; let us consider the fact that the population in 1920 per square mile of line was less than a trunk line territory states is 54.7 and in Southwestern territory only 23.8; it is greater in one by 229 per cent. Per mile of line it is 352.3 in Western territory and 296.4 in Southwestern. Now, the Western Trunk Lines say throughout this proceeding that this condition has changed and the Southwest will overtake the Western Trunk Lines. That is absolutely disproved by the figures we have here which show that the relationship today is worse off for the Southwestern Lines than it was in 1880 as compared with 1920. For instance, in 1880, the Western Trunk Lines had a density of population per mile line of 381.2 and the Southwestern Line 601.8. In 1920 that had changed to this extent: that the Western Trunk Line had a population of 370.1, a decrease of but 2.9 per cent, whereas the Southwestern group had a decrease of 310.6 or an actual figure of 48.4 as compared to

the 2.9 per cent and then follow that up and compare the years 1920 with 1900 and it shows an increase in density per mile of line in Western Trunk line territory of 7.3 and further decrease of 13.4 in Southwestern territory. That is accounted for, of course, by the additional railroad building in the Southwest and shows just what we claim is the case; the point of railroad saturation in Western Trunk Line Territory is practically reached. We may expect nothing in the line of major construction operation in the territory East of the Missouri River and therefore we are assured either of the continuance or increase of present population per mile of territory whereas in the Southwest it is still in its pioneer stage and, for the future, there will be increased building and our relationship of our line population will become successively worse, but that is true as evidenced by the cases before the Commission. The extension [fol. 1714] of the Southern (Pacific) Railway, for instance, to the Rio Grande Valley, the building of the Rock Island, of the new construction in the plains territory or country of Texas, all of which shows we may reasonably expect further railroad development in the Southwest and that should of course be given consideration.

I had, your Honors, a number of further comparisons to make regarding the agricultural conditions, showing the greater activity and tonage per acre in Western Trunk Line States and the Southwest and the far greater activity in the Western Trunk Line States in the manufacturing conditions there which accounts for the increased tonnage, but time is so short that I will not go into that. I would like to say in that connection, in connection with the claim that the Southwestern States are rapidly overtaking the Western Trunk Line States that, as to population, the Western Trunk Line States pointed out how fast the population in Southwest territory was catching up with Western Trunk Line states: They showed for instance—I have not got the figures on this at hand, but it is referred to in the brief, and the substance was that within the next twenty years the Southwestern States if the population increased in the same ratio that it had in the last twenty years, it will be hundred years before the population of the Southwestern States equals the population in the Western Trunk Lines group notwithstanding——

Commissioner Eastman (interposing): Including Chicago in that?

Mr. Outlaw: Yes, sir, Chicago and the State of Illinois, and I point out why we cannot exclude it. In connection with manufacturing, the number of people in the industry and the payrolls, we say, relatively, comparing 1921 with 1924, that if the relative increase in the Southwest for each successive 17-year period was as great, as large, and increased in accordance with Western territory, it would be from 51 to 68 years before manufacturing activity in the Southwest would approach the plane it now is on in the West.

[fol. 1715] Commissioner Eastman: You speak of the new lines in the Southwestern territory. Is it not true that in the case of each one of these lines the construction was supported by sworn statements of earnings over a period of five years and a showing of future activity which would result in large and increasing tonnage?

Mr. Outlaw: As the country developed, but per mile of line it would not approach what it was in Western Trunk Line territory. I assume that the Commission will approve no case where the line will fail.

Mr. Muckley intended to speak on the rate level question.

One other thing before I stop: one of the particular things the Commission required to take note of was whether the line originated or terminated or was an intermediary carrier. On every point of traffic in this case, the Southwestern lines are originating or delivering or carrying well on one-third of the traffic.

One other thing, Mr. Towner in some of his comparisons and his brief has said that we might consider only railroads wholly in Western Trunk Line territory or only the respondent line. In answer to that, the Southwestern Lines show from the exhibits in the case that 18,000 cars per year moved to and from non-respondent lines—but my time is up.

Commissioner Meyer: Mr. Muckley:

Argument of Mr. G. H. Muckley on Behalf of the Southwestern Lines

Mr. Muckley: If your Honors please——

Mr. Towner (interposing): May I interrupt to say, your Honors, that the figures on density are shown on Table 2.

Commissioner Meyer: Thank you.

Mr. Muckley: The first thing I would like to do is call attention to the response to Commissioner McManamy's [fol. 1716] question to Mr. Outlaw in connection with Appendix No. 1: there is a statement showing constructive mileage on all other carload freight by East gateways from and to the Southwest. Instead of showing two for one via St. Louis, the percentage is 1.232 and via Kansas City is 1.76. There are figures in that Appendix showing the traffic situation.

Now, Mr. Towner has asked your Honors to accord the Western Trunk Lines a mileage pro rate. I say that a mileage pro rate contemplates that all of the conditions, transportation and otherwise, in the two territories are equal, but the record in this case unquestionably shows that every factor which can be and should be and has been taken into consideration by the Commission shows a difference in conditions in the two territories which is favorable to the Southwestern Lines and requires their divisions to be in excess of the mileage pro rate. About the only condition where there is no similarity is in the physical operating conditions and we claim that even these are less favorable in the Southwest territory.

I have heard Mr. Towner's argument and I have not heard him mention a condition which is adverse to the Western Trunk Lines.

Another important factor to be considered in this matter is the investment of the revenue ton mile which is 138 per cent which is compared with the Western traffic line.

Another important thing in my judgment is the rate level. Now, we have made a study and I think an intensive study of the rate level in the two territories. We have put in some ten or twelve exhibits in the Southwestern Lines case at the Galveston hearing. The Western Trunk Lines I do not believe put in any exhibit that dealt primarily with the rate levels. They did not attack or rebut the rate level exhibits we put in. I do not claim that our exhibits showing comparative rate levels are accurate in every respect but I do claim that they are the best that could be gotten up under the circumstances. We have compared, and if your [fol. 1717] Honors will refer to the back of this brief of the Southwestern Lines for just a moment, I will call your

attention to the last page of the brief, a blueprint showing the results of these studies of the rate levels in the two territories, the studies we made with respect to both class and commodity rates, and both inter and intra state rates. I have not the time to go into the details of the Exhibit but I refer you to the record for the fairness of the basis upon which the exhibits were produced. The Examiner in arriving at a conclusion as to the rate level said that there is no exact conclusion that can be reached, but the safe conclusion is that the rate levels of the Southwestern district exceed that level in trunk line territories and is certainly supported by the record. We have compared not only the class rate levels and commodity levels within the States but we have put in the record comparisons of the decisions of the Commission under the Examiner at Sheet 11 of his proposed report has quoted to your Honors the case as 66 I. C. C. and the case reported at I. C. C. and on Sheet 11 he shows the cost rate for Illinois, established as a result of the Illinois classification, 56 I. C. C., 202, an increase under Interstate rates within Illinois, 60 I. C. C. 92, compared with those of similar distances recently prescribed for the Southwest and consolidated Southwestern cases, 123 I. C. C., 203, the rates in Illinois being, he says, as shown in the lower line and those for the Southwestern in the upper line opposite each distance figure and the tabulation is quite in detail.

We have put in the record a comparison between the Memphis and the Southwestern Central and the Fargo schedule and the Watertown schedule fixed by the Commission as the percentages shown to range, I think, in the Fargo case 137 per cent, the Watertown 150 per cent—anyway those are the percentages, they may be reversed cases——

[fol. 1718] Commissioner Eastman (interposing): Is not it true that the class rates in this territory carry very different traffic than the class rates in these other territories?

Mr. Muckley: I cannot say. There is nothing in the record on that.

Commissioner Eastman: We have said in several cases that the class rates in official territory are not comparable with the rates in Southwestern territory.

Mr. Muckley: You have said in numerous cases that the rates in South territory exceeded the rates in Western territory. In 1918 you referred to the fact that the rate levels

are higher in the Southwestern territory than they are in the Western Trunk Line territory.

Commissioner Eastman: Have you any evidence which shows the average levels of rates and statements of the receipts per car mile comparatively with the average haul in both territories?

Mr. Muckley: I beg your pardon?

Commissioner Eastman: I ask you if you have any evidence which shows the average levels of rates and statements of receipts per car mile in terms of average receipts per ton mile in both territories combined with the average haul?

Mr. Outlaw: Yes. The years 1923 to 1924 the witness Press in Exhibit A-124 goes into that.

Mr. Muckley: The Western Trunk Lines admits that the level is much higher in the Southwest than in the Western Trunk Line territory and they say so at page 103 of the brief. I do not think there is any question about that. What the exact percentage is I do not think the record shows.

I will refer just to one thing which I think is significant and that is the question that was asked Mr. Parsons, the leading witness for the Western Trunk Lines at next to the last hearing. He was asked whether or not, on page 6680, [fol. 1719] of this record, he was asked: "Of course, you concede that in fixing divisions you must take into consideration the traffic density for example and the rate levels of the respective territories."

He answered: "Those are two of the factors to be taken into account."

He was then asked: "Assuming that the rate levels in the Southwest are approximately 140 to 150 per cent of those in Western Trunk Lines and the traffic in Western Trunk Line Territory ranges from about the same amount, 150 per cent of that in Southwestern territory, would you say that this showing on your Exhibit A-242 showed that the Southwestern Lines were receiving too much revenue?"

He answered: "I don't know that I could answer that question off-hand."

He was asked: "You have studied this case for some time?" and he answered "Yes" and he was asked: "And

you do not care to answer that question?" and he replied: "I am not prepared to express an opinion."

He had studied this question and this case for two or three years and he was confronted with the question that showed the conditions in the Southwestern territory were more burdensome than they were in the Western territory and he refused to answer that question. I think that is very significant.

Commissioner Meyer: Your time is up.

Mr. Muckley: I would like to refer to pages 50 and 51 of our opening brief as referred to there, particular the rate of return to the Western Trunk Lines.

Commissioner Meyer: This case is submitted.

Division No. 1 will hear argument calendared to be heard before it.

(Thereupon at 12:09 o'clock p. m. the hearing in the above matter was concluded.)

[fol. 1720] Mr. Moore thereupon stated that Mr. Davis, also counsel for petitioners, would present a witness on behalf of petitioners.

"Mr. Davis: If your Honors please, it might be well for me to state that Mr. Leland's testimony will deal with the allegations contained in Section 22 of our amended petition, wherein we allege that the Interstate Commerce Commission in its order, I. C. C. Docket No. 15234, which is attached to (attacked in) this proceeding, attempted to divide revenue accruing to the Western Trunk Lines east of the Mississippi River and distribute that as between the Western Trunk Lines and the Southwestern Lines, although the Southwestern Trunk Lines had no control over that portion of the revenue or the distribution of that revenue as between the Central Freight Association Lines, which operate east of the Indiana-Illinois State line. In other words, that the joint revenues accruing under the rates from the Central Freight Association territory to destinations (or origins) in Southwest territory are divided on the Mississippi River, and that the division of all revenue east of the Mississippi River is within the hands of the Western Trunk Lines and the C. F. A. Lines."

Witness F. A. LELAND, being produced, sworn and examined as a witness on the part of the petitioners, testified as follows:

I am Chairman of the Southwestern Freight Bureau, which is an organization of the Southwestern Lines in the handling of freight matters. That bureau also handles, to some extent, divisional matters for the Southwestern Lines. In connection with that bureau I have become familiar with the divisions between the Southwestern Lines and the Western Trunk Lines and the C. F. A. Lines. The C. F. A. lines are the Central Freight Association Lines, which are located in the territory generally described by the Commission in its order in this divisions case as the territory [fol. 1721] east of the Illinois-Indiana state line, on and north of the Ohio River and the line formed by the Chesapeake and Ohio, Norfolk and Western and Virginian, between Cincinnati, Ohio, and Norfolk, Virginia. I have prepared a map which shows typical examples of the railroads operating into the State of Illinois, and also the junction points between the C. F. A. Lines or Central Freight Association Lines, and the Western Trunk Lines within Illinois. Petitioners thereupon, through their counsel, offered in evidence the said map as Petitioners' Exhibit No. 23 E. F. M., and the same was received in evidence.

[fol. 1722] Referring to the said map and having in mind the territory which has been mentioned east of the Illinois-Indiana state line and the territory designated as Southwestern Territory, and assuming that a shipment moves from a point on the New York Central to Chicago, thence via the Chicago, Milwaukee & St. Paul Railway Company to Savanna, east of the Mississippi River, thence via the Chicago, Milwaukee & St. Paul Railway to Kansas City, and thence via Southwestern lines to a destination in what is known in this proceeding as Southwestern Territory, the revenue under the joint rates applying to that shipment would be divided as between the Southwestern Lines and the Central Freight Association Lines, or the lines east of the Mississippi River, as follows:

The primary point of interchange between the Southwestern Lines and the Central Freight Association Lines on the traffic mentioned is East St. Louis. The arrangements are made between the Central Freight Association Lines

and the Southwestern Lines direct for dividing the revenue on such shipments through the St. Louis gateway, and when that division has been determined by those two sets of lines, in which the Western Trunk Lines are in no way concerned, then the Eastern Lines—the Central Freight Association Lines have made and had in effect for many years past an arrangement for applying that same division to Mississippi River crossings north of East St. Louis, such as East Hannibal, East Dubuque, Rock Island, Savanna, Illinois, and East Burlington. The rails of the Central Freight Association Lines do not reach the Mississippi River at these north crossings, but they use the Western Trunk Lines from the junctions at Chicago and interior Illinois to reach the Mississippi River crossings, and they have prorating arrangements under which the revenue established by direct contact with the Southwestern Lines at St. Louis is divided on percents. In other words, if 50¢ is the division accruing on a shipment from Cleveland via East St. [fol. 1723] Louis, 50¢ is then the amount that is divided between the lines on the official classification between the Central Freight Association Lines and the Western Trunk Lines east of the Mississippi River. The map is not intended to show all of these routes, but one typical route to each crossing. It shows at East Dubuque the route of the Chicago Great Western, the Michigan Central and the New York Central. It shows at Savanna the route of the Chicago, Milwaukee & St. Paul, and those two Chicago-Eastern Lines. At Davenport and Rock Island it shows routes through Peoria in connection with the Chicago, Rock Island & Pacific Railroad, etc. The revenue to the north Mississippi River crossing, being the same as the revenue to East St. Louis, the west side part of the Western Trunk Lines to the Mississippi River at Kansas City—by west side I mean that portion of the Chicago Great Western, Milwaukee, Rock Island, Wabash, etc., lines west of the Mississippi River. They have an arrangement with the Southwestern Lines for dividing the remainder of the rate accruing on the shipments originating in Eastern Territory. The breaking point is the Mississippi River all the time as between the eastern situation and the Southwestern situation, and finds its starting point at St. Louis. Taking the example of the movement via New York Central through Chicago thence via Chicago, Milwaukee & St. Paul to Savanna

and thence Chicago, Milwaukee & St. Paul to Kansas City, the Southwestern Lines have no voice in determining the amount of revenue which will be accrued to the Milwaukee for the haul from Chicago to Savanna. They have no voice and no concern with it whatever. They have never found it necessary to negotiate with the Central Freight Association Lines, in this case, the New York Central, with reference to the amount of revenue that the Milwaukee shall receive for the haul from Chicago to Savanna. They have never in the past found it necessary to do so because of the fact that the amount of the total rate east of the Mississippi [fol. 1724] River was the same as at St. Louis. The situation which I have described is typical as to the traffic delivered by the Central Freight Association Lines to the Western Trunk Line points and moved thence by the Western Trunk Lines to the Mississippi River crossings north of St. Louis and East St. Louis. It is the standard arrangement by which the Eastern Lines and the eastern portion of the Western Trunk Lines form joint routes to the north Mississippi River crossings through which they equalize the conditions created at St. Louis.

With reference to the total haul from the point of origin on the New York Central to Savanna on the Chicago, Milwaukee & St. Paul, in the above example, the revenue from the haul to the Mississippi River east bank crossing is divided on varying per cents as between the Eastern Lines and the portion of the Western Trunk Lines east of the Mississippi River. The per cents vary according to the origin of the traffic, the length of the Central Freight Association haul (Tr. 93-96). I have prepared a statement giving the corporate names of the Central Freight Association railroads which have interchange arrangements with the eastern portion of the Western Trunk Lines east of the Mississippi River at Chicago, Peoria, Decatur etc., and I have omitted from this statement the names of all official classification lines and lines in the Eastern Territory, and have shown only those which are directly concerned in the negotiations with the Western Trunk Lines as to those divisions; that is, the lines which have direct connections with the Western Trunk Lines at Illinois junctions, either direct or through switching lines, such as the lines serving Chicago and Peoria etc.

Petitioners, through their counsel, offered the said statement in evidence as petitioners' Exhibit 24 E. F. M., and the same was received in evidence, and is in words and figures as follows (Tr. 96-97):

[fol. 1725] The Baltimore and Ohio Railroad Company.
The Baltimore and Ohio Chicago Terminal Railroad Company.
The Chesapeake and Ohio Railway Company.
Chicago and Eastern Illinois Railway Company.
Chicago and Erie Railroad Company.
Chicago & Illinois Midland Railway Company.
Chicago and Illinois Valley Railroad Company.
Chicago, Aurora and Elgin Railroad Company.
Chicago, Indianapolis and Louisville Railway Company.
The Cleveland, Cincinnati, Chicago and St. Louis Railway Company.
Grand Trunk Railway System.
Illinois Terminal Company.
The Michigan Central Railroad Company.
The New York Central Railroad Company.
The New York, Chicago and St. Louis Railway Company.
Peoria and Pekin Union Railway Company.
The Pennsylvania Railroad Company.
Pere Marquette Railway Company.
Toledo, Peoria & Western Railroad.

Cross-examination.

By Mr. Towner:

On traffic between Eastern Territory and the Southwestern Territory the primary division is on the Mississippi River at St. Louis. The revenue accruing to the carriers east of that dividing line for the purposes of this division is eastern revenue and the revenue accruing to the carriers west is western revenue. The revenue east of the Mississippi River and St. Louis is divided up among the carriers handling the traffic in that territory as eastern carriers, and the roads handling the traffic west of the river are presumed to be Western carriers.

Redirect examination.

By Mr. Davis:

That portion of the revenue accruing to the Chicago, Milwaukee & St. Paul Railway in the example which was given

for the haul between Chicago and Savanna goes into the coffers of the Chicago, Milwaukee & St. Paul (Tr. 98).

[fol. 1726] CLARENCE E. DAY, being produced, sworn and examined as a witness on the part of the petitioners testified as follows:

Direct examination.

By Mr. Muckley:

Witness stated his experience, and that he is in the executive department of the Southern Pacific Company. Witness stated that he had made very many studies since 1924 concerning costs of operation and cost data in connection with the operation of railroads; in fact, that that has been his particular assignment. He has made a study of the Commission's decision in this case and of the formula fixed by the Commission for arriving at the divisions of the joint rates.

Petitioners, through their counsel, offered to prove the following by the said witness:

Mr. Muckley: Now, if the Court please, I offer to prove by this witness that the Commission based its formula in this case upon relative costs of operation, including a fair return, in the respective territories involved in this case; that the formula adopted by the Commission by reason of the use of the Southwestern First Class Scale does not in any way fix divisions or arrive at a fair division, an equitable division on a cost basis, and that by reason of the very rapid decreasing progression in the Southwestern First Class Rate Scale, the Southwestern carriers which have the long hauls on this joint traffic, receive less than 20% more revenue than the Western Trunk Lines, and to the extent that they fall short of receiving 20% more revenue, the Commission's formula or conclusions do not conform to its findings. I offer to show by this witness that under accepted standards and opinion of experts in these matters, including Dr. Lorenz, the Chief Statistician of the Commission, that cost scales should not decrease in the progression in the manner that the Southwestern scale does.

[fol. 1727] OFFERS IN EVIDENCE

Petitioners also offered in evidence a diagram in exhibit form showing the progression of the Southwestern First Class Scale, which is used by the Commission in its division formula, and the same was marked for identification as Petitioners' Exhibit 25 E. F. M. (Tr. 108).

Petitioners also offered in evidence a diagram showing the progression in the First Class Southwestern rates, and the same was marked for identification as Petitioners' Exhibit 26 E. F. M. (Tr. 111).

Petitioners also offered in evidence a diagram showing the progression in the First Class Southwestern Scale compared with the progression in a cost scale properly prepared, and the same was marked for identification as Petitioners' Exhibit 27 E. F. M. (Tr. 112).

The defendants objected to the said offer of testimony and to the said exhibits upon the ground that the same are irrelevant and immaterial; that the said evidence is not relevant to any issue in this suit; and that the Commission's report is the best evidence of what the Commission did and on what it rested its opinion.

The said offer of testimony and of each of the said exhibits was rejected, to which ruling and action of the Court as to each of the said matters the petitioners, by their counsel, at the time duly and separately excepted, and still separately except.

Thereupon the petitioners rested their case.

The record which was offered in evidence contains all of the testimony and all of the exhibits that were offered in the case before the Commission in the matter of divisions between the Western Trunk Line respondents and the Southwestern respondents (Tr. 115-116).

No restraining order was issued in the case, the Interstate Commerce Commission having postponed the effective date of the order. The case was submitted on final hearing (Tr. 121-122).

Counsel for the Commission undertook, upon recommendation of the Court, to request the Commission to extend the effective date of the order in the case until the first day of December (Tr. 120-121).

[fol. 1728] IN UNITED STATES DISTRICT COURT

ORDER APPROVING STATEMENT OF EVIDENCE—Filed Jan. 22, 1930

The undersigned, being the three judges who tried the above entitled cause, in which an order or decree was entered on to-wit: the 27th day of November, 1929, do hereby certify that the statement of the evidence as prepared by the appellants, consisting of 1,620 pages, is, with the original exhibits offered in evidence, which are to be certified separately by the Clerk of this Court to the Supreme Court of the United States, a true, perfect and complete statement of all of the evidence in this cause, and that the said statement of the evidence, with the said exhibits, comprises all of the evidence and all of the exceptions and objections of any party in this cause to the introduction of any of the said evidence.

Archibald K. Gardner, United States Circuit Judge.
Albert L. Reeves, Merrill E. Otis, United States District Judges.

O. K. Elmer B. Collins, Edward M. Reidy.
O. K. F. H. Towner.
O. K. F. H. Moore, W. E. Davis.

IN UNITED STATES DISTRICT COURT

RECORD ENTRY ORDER TO CERTIFY ORIGINAL EXHIBITS, ETC.—Filed Jan. 22, 1930

This day come the parties herein by their respective attorneys and file Order to certify original exhibits to the Supreme Court of the United States, also Stipulation relative to tariffs; thereupon the Intervening defendants, Wm. W. Wheelock, etc., file Motion for an order vacating and [fol. 1729] setting aside the order staying the order of the Interstate Commerce Commission, also statement of showing to be made upon said motion and notice of hearing; petitioners file objections to said motion together with affidavits of L. J. Sickel and W. G. Buechner; thereupon said motion is submitted to the court and taken under advisement.

IN UNITED STATES DISTRICT COURT

ORDER TO CERTIFY ORIGINAL EXHIBITS TO THE SUPREME COURT—Filed Jan. 22, 1930

This day this cause came on for hearing upon the motion filed by the appellants for an order directing the Clerk of this Court, in making up the record for appeal of the above entitled cause to the Supreme Court of the United States, to certify to the Supreme Court the original exhibits, separately from the transcript of the record, the appellants appearing by their counsel, Messrs. F. H. Moore, W. E. Davis and A. F. Smith, the United States and the Interstate Commerce Commission appearing by their Counsel, Mr. E. M. Reidy and Mr. William W. Wheelock, et al., intervening defendants, appearing by their counsel Mr. F. H. Towner.

The court, after considering the said motion and being duly advised in the premises, doth order and direct that the Clerk of this Court, in preparing the transcript of the record on appeal in the above entitled cause to the Supreme Court of the United States, shall certify all of the original exhibits introduced in evidence in the said cause, being the exhibits introduced in evidence at the hearing before the Court and which were marked for identification as Petitioners' Exhibits 2 to 27, inclusive, and also all of the exhibits which were attached to petitioners' Exhibit No. 1, the said exhibits attached to petitioners' Exhibit No. 1 being marked Exhibits 1-A to A-289, inclusive, but not including the testimony contained in petitioners' Exhibit No. 1, for the reason that the same has been reduced to narrative form, and is being certified and forwarded in transcript of the record, and it is further ordered that the [fol. 1730] said exhibits shall be certified and forwarded by the Clerk of this Court as original exhibits, not as a part of the transcript of the record, but separately therefrom, and that any of the parties hereto may refer to said original exhibits in their briefs and arguments with like effect as if printed as part of the record.

Albert L. Reeves, U. S. District Judge.

O. K. F. H. Towner, Elmer B. Collins, Edward M. Reidy, F. H. Moore, W. E. Davis.

[File endorsement omitted.]

82—642, 643

[fol. 1731] IN UNITED STATES DISTRICT COURT

STIPULATION RE EXHIBIT "A-9"—Filed Jan. 22, 1930

It is agreed that the tariffs listed in Exhibit No. A-9 offered on the hearing before the Commission and referred to in the transcript of evidence filed herein, contain the then applicable specific rates, the division of which was prescribed by the Commission in its orders; that said tariffs were in evidence before the Commission and the District Court as a part of the records made before said Commission and said Court; and that this statement shall be taken as a full and correct statement of what said tariffs contain.

It is further agreed that none of said tariffs listed in said Exhibit No. A-9 need be physically included in the record or exhibits certified to the Supreme Court, and no exception shall be taken by either party to the physical omission of said tariffs from the transcript of evidence and exhibits certified to the Supreme Court nor shall any party claim that the transcript of the record is insufficient because of their omission therefrom.

Dated this 22nd day of January, 1930.

United States of America, by Elmer B. Collins, Sp. Asst. to the Atty General. Interstate Commerce Commission, by E. M. Reidy, Its Solicitor. William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago Great Western Railroad Company, [fol. 1732] Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company, W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company, St. Paul & Sault Ste. Marie Railway Company and Wabash Railway Company, Interveners and Appellees, by F. H. Towner. The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, The Galveston, Harrisburg, and San Antonio Railway Company, Houston and Shreveport Railroad Company, Houston & Texas Central Railroad Company, The

Houston East and West Texas Railway Company, International-Great Northern Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Railway & Navigation Company, Louisiana Western Railroad Company, Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, Morgan's Louisiana and Texas Railroad and Steamship Company, New Orleans, Texas & Mexico Railway Company, The St. Louis, Brownsville and Mexico Railway Company, St. Louis-San Francisco Railway Company, St. Louis, San Francisco and Texas Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, San Antonio & Aransas Pass Railway Company, Texas and New Orleans Railroad Company, and The Texas and Pacific Railway Company, Petitioners and Appellants, by F. H. Moore, W. E. Davis, Solicitors for Petitioners and Appellants.

Approved.

[File endorsement omitted.]

[fol. 1733] IN UNITED STATES DISTRICT COURT

MOTION FOR ORDER VACATING, ANNULLING, AND SETTING ASIDE ORDER STAYING ORDER OF THE INTERSTATE COMMERCE COMMISSION—Filed Jan. 22, 1930

Now come William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company; Chicago and Northwestern Railway Company; Chicago, Burlington & Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, St. Paul, Minneapolis & Omaha Railway Company; Illinois Central Railroad Company; W. H. Bremner, Receiver of Minneapolis & St. Paul Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Rail-

way Company; and Wabash Railway Company; intervening defendants herein, by their counsel F. H. Towner, and ask that the court enter an order herein vacating, annulling and setting aside the order entered herein on November 29, 1929, in which order the enforcement, operation and execution against petitioners herein, or any of them, of the order of the Interstate Commerce Commission, entered under date of June 10, 1929, and the amended and supplemental orders dated July 25, 1929, and September 24, 1929, in the proceeding before said Commission entitled and known as Docket No. 15234, "In the Matter of Divisions of Freight Rates in Western and Mountain Pacific Territories" was stayed, restrained, enjoined and suspended as to said petitioners and each of them and supersedeas thereof allowed during the pendency and until the determination of the appeal taken by said petitioners to the Supreme Court of the United States, be vacated, annulled and set aside.

F. H. Towner, Solicitor for said Intervening Defendants.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

STATEMENT OF SHOWING TO BE MADE UPON THE HEARING OF MOTION TO VACATE ORDER STAYING ORDER OF INTERSTATE COMMERCE COMMISSION—Filed Jan. 22, 1930

Upon the hearing on January 22, 1930, of the motion of [fol. 1734] the solicitors for William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company, et al., intervening defendants herein, for an order vacating, annulling and setting aside the order entered herein on November 29, 1929, in which order the enforcement against petitioners herein of the orders of the Interstate Commerce Commission, entered in its Docket No. 15234, was stayed, pending the determination of petitioners appeal to the Supreme Court of the United States, the solicitors for said defendants, will make the following showing:

1. They will present evidence to show that the order entered herein on November 29, 1929, staying the orders of the Interstate Commerce Commission entered in its Docket No. 15234, has caused and will cause confusion among the railroads named as respondents in said orders of said Commission and may produce violations of section 16 of the Act to Regulate Commerce, or of the said stay order entered herein, for the reason that all of the southwestern roads, parties to said orders of the Commission, are not petitioners herein and are not protected by said stay order; that in the division of revenue on traffic covered by said orders of the Commission and moving subsequent to December 1, 1929 and handled in the southwest jointly by railroads petitioners in this suit, and railroads which are not petitioners herein, two divisional bases must be applied, one the basis in effect prior to December 1, 1929, and the other the basis prescribed by said Commission in its orders; that a large volume of such traffic is now moving and will continue to move between western trunk line territory and southwestern territory; that unless both of said divisional bases are applied in dividing the revenue on said traffic there will be violations either of the stay order entered herein on November 29, 1929, or of the provisions of Section 16 of the Act to Regulate Commerce; that it will be a practical impossibility to so apply the said two divisional bases in dividing the revenue upon such traffic.

2. They will present evidence to show that if said stay [fol. 1735] order entered herein on November 29, 1929, is not vacated, annulled and set aside, there will be imposed upon the western trunk lines, intervening defendants herein, the obligation to keep an accurate record of all shipments moving subsequent to November 30, 1929, and to which the said orders of the Commission will be applicable in the event the Supreme Court of the United States sustains said orders. The keeping of said records will impose upon the western trunk lines, intervening defendants herein, a large expense which they should not be required to assume;

3. That if the said stay order entered herein on November 29, 1929, is vacated and set aside and the said orders of

the Interstate Commerce Commission are allowed to become effective as of December 1, 1929, there will be no confusion at all in the settlement of the divisions as between the western trunk lines and the southwestern lines and that no expense will be imposed upon the petitioners herein which should not be imposed upon them.

4. They will present evidence to show that the situation as it existed prior to December 1, 1929 is not continued in effect subsequent to said date by virtue of the stay order entered herein on November 29, 1929.

5. They will show that if the stay order entered herein on November 29, 1929 is not vacated and set aside the rights and interests of the western trunk lines, defendants herein, will be seriously affected to their great damage, for the reason that the stay bond filed herein does not protect them in respect to increased divisions due them from the nine railroad companies in southwestern territory, which companies are not plaintiffs in this suit and are not obligors on said bond and with respect to whose traffic, which is subject to the said orders of the said Commission, said orders cannot be successfully applied because of said stay order entered herein.

6. They will show that there are no important and novel questions presented by the assignment of errors filed by [fol. 1736] the petitioners herein in the Supreme Court of the United States and concerning which there is any serious doubt.

7. They will show that the petitioners herein will not sustain irreparable injury if said stay order entered herein is vacated and set aside and said petitioners are required to comply with said orders of said Commission, even though said orders are set aside in the Supreme Court of the United States, and that in such event, said petitioners will be able to recover from the western trunk line railroads, defendant herein, and which are in receivership, any

amounts paid to said railroads under said orders of said Commission during the pendency of said appeal.

Silas H. Strawn, K. L. Richmond, P. F. Gault, K. F. Burgess, Ralph M. Shaw, J. Carter Fort, G. M. Swanstrom, A. H. Lossow, L. H. Strasser, F. H. Towner, Solicitors for William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company, et al., Intervening Defendants.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

NOTICE OF HEARING ON MOTION TO VACATE ORDER STAYING ORDER OF INTERSTATE COMMERCE COMMISSION—Filed Jan. 22, 1930

To F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, [fol. 1737] J. R. Turney, Robert Thompson, solicitors for Petitioners:

Please Take Notice that on Wednesday, the 22nd day of January, 1930, at the opening of court, or as soon thereafter as counsel can be heard, we shall appear before the Honorable Archibald K. Gardner, Circuit Judge, the Honorable Albert L. Reeves, District Judge, and the Honorable Merrill E. Otis, District Judge, in the room occupied by them as a court room in the Federal Building at Kansas City, Missouri, and will present our motion for an order vacating the order entered herein on November 29, 1929, in which order the enforcement, operation and execution against petitioners, or any of them, of the order of the Interstate Commerce Commission, entered under date of June 10, 1929, and the amended and supplemental orders dated July 25, 1929, and September 24, 1929, in the proceeding before said Commission entitled and known as Docket No. 15234, "In the Matter of Divisions of Freight Rates in Western and Mountain Pacific Territories" was stayed, restrained, enjoined and suspended as to petition-

ers and each of them, during the pendency and until the determination of their appeal, taken herein to the Supreme Court of the Unite States.

There is attached hereto a copy of said motion, a copy of said order, a copy of telegram sent to the Honorable Archibald K. Gardner, Circuit Judge, to F. H. Towner, dated January 10, 1930, and a statement of the showing that will be made by the undersigned upon the hearing of said motion.

Silas H. Strawn, K. L. Richmond, P. F. Gault, K. F. [fol. 1738] Burgess, Ralph M. Shaw, J. Carter Fort, G. M. Swanstrom, A. H. Lossow, L. H. Strasser, F. H. Towner, Solicitors for William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company; Chicago and Northwestern Railway Company; Chicago, Burlington & Quincy Railroad Company; Chicago Great Western Railroad Company; Chicago, St. Paul, Minneapolis & Omaha Railway Company; Illinois Central Railroad Company; W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, Intervening Defendants.

Received a copy of the foregoing notice, together with a copy of the motion, order, telegram and statement of showing therein referred to, this 13th day of January, 1930.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Petitioners. Elmer B. Collins, Solicitor [fol. 1739] for United States. E. M. Reidy, Solicitor for Interstate Commerce Commission.

[File endorsement omitted.]

[fol. 1740] IN UNITED STATES DISTRICT COURT

OBJECTIONS TO JURISDICTION AND, SUBJECT THERETO, STATEMENT OF SHOWING TO BE MADE AT THE HEARING ON JANUARY 22, 1930, BY APPELLANTS IN OPPOSITION TO THE MOTION OF THE INTERVENING WESTERN TRUNK LINE APPELLEES FOR THE VACATION OF THE ORDER ENTERED BY THE COURT ON NOVEMBER 29, 1929, STAYING THE OPERATION AND ENFORCEMENT AGAINST APPELLANTS OF THE ORDERS OF THE INTERSTATE COMMERCE COMMISSION IN DOCKET NO. 15234 PENDING THE APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed Jan. 22, 1930

Appellants oppose the said motion of the intervening Western Trunk Line appellees and the consideration and decision of the same by this Court, upon the following grounds:

1. This Court has no jurisdiction to hear and decide the said motion for the reason that before the same was filed an appeal of the said cause to the Supreme Court of the United States had been perfected.

2. This Court has no jurisdiction to hear and decide the said motion, for the reason that, before the same was filed, a cross appeal, on account of the granting of the said order staying the operation and enforcement of the said orders of the Interstate Commerce Commission, had been taken by the United States and the Interstate Commerce Commission, defendants and appellees herein.

[fol. 1741] 3. This Court has no jurisdiction to hear and decide the said motion, for the reason that the statutory defendant in this case, the United States of America, and also the Interstate Commerce Commission, have filed a cross appeal from the action of this Court in granting the said order staying the enforcement of the said orders of the Interstate Commerce Commission; and that the said motion of the said interveners is inconsistent with the said cross appeal, and the interveners have no right to take any action which is inconsistent with the conduct of the said case by the said defendant, the United States of America.

Subject to the above pleas to the jurisdiction, which appellants do not waive, but on the contrary, insist upon, appellants make the following allegations, which they offer to prove, in so far as the same require proof:

1. In answer to the first paragraph of said interveners' statement, appellants allege that the practical impossibility, if any, of applying the said two divisional bases arises, not from the fact that there are two bases of divisions, but from the fact that the percents for the division of the revenues in accordance with the Commission's orders have not yet been worked out, and, as hereinafter explained, cannot be worked out for considerable time; that two bases of divisions can be, and at times are, applied to the revenue even for a single movement; appellants further state that confusion would not be obviated by vacating the said stay order of this Court, as claimed by the said interveners, but, on the contrary, would be increased thereby; that two divisional bases, applying to the traffic between Western Trunk Line territory and Southwestern territory would be necessary under the Commission's orders even if the stay order were vacated; that this results from the fact that the said orders of the Interstate Commerce Commission were not made to apply to the divisions of the rates on all traffic between Western Trunk Line territory and Southwestern territory, but to apply only to revenue from traffic which not only has origin or destination on the line of a Southwestern respondent, but also has destination or origin, as the case may be, on the line of a Western Trunk Line respondent, or has origin or destination on the line of a Southwestern respondent and is transported to or from certain Eastern territory and passes over the line of a Western Trunk Line respondent; that there is a large amount of traffic between Western Trunk Line territory [fol. 1742] and Southwestern territory to which the said divisional orders of the Commission do not apply; that there are over 100 railroads in the Southwestern territory which, individually, or in the aggregate, originate and deliver a substantial amount of such traffic; that the Commission failed and refused to make the said railroads respondents in the said proceeding, although the Southwestern respondents filed a motion asking that the said other

Southwestern railroads should be made respondents; that there are also a large number of railroads operating in the Western Trunk Line territory which the Commission failed to make respondents in the said proceeding, and which originate and deliver a substantial amount of such traffic; that two bases of divisions are a necessary result and effect of the enforcement and operation of the said orders of the Commission; that the continuance of this Court's stay order will result in a minimum of confusion and inconvenience pending the appeal, for the reason that if appellants shall succeed in their appeal, it will never be necessary, as to them, to establish two bases of divisions or to compute the said divisions upon the basis prescribed by the Interstate Commerce Commission, but the original computation, based upon the existing basis of divisions will become final, and a large amount of useless expense, labor and confusion will be avoided, any confusion which would result being confined to the Southwestern respondents which failed to join in this suit; that if the appellants shall fail in their said appeal, the divisions upon the basis prescribed by the Commission, can then be re-computed upon the traffic to which they apply; that such re-computations and adjustments are made, in numerous instances, by the carriers, where a basis of divisions is changed and given a retroactive effect; that the alleged fact that certain of the Southwestern respondents may violate Section 16 of the Interstate Commerce Act, or the said stay order of this Court, because the said respondents did not join in this suit, and are not protected by the stay order, is not [fol. 1743] due to any fault of appellants, and they should not be penalized therefor, but appellants allege that there is no reason why the said Southwestern respondents which did not join in this suit cannot make as substantial compliance with the orders of the Commission as if said stay order were not in effect; that in any event, whether the stay order were in force or not, the working out of the percents upon which the revenues shall be divided (by agreement on distances, ascertainment of first class rates for such distances from the Southwestern scale, application of the percents prescribed in the Commission's formula, and ascertainment therefrom of the relative proportions, stated in per cents, to which the Western Trunk

Lines and Southwestern Lines are entitled between a certain point of origin and a certain point of destination) and agreement on groups of points to which each percent shall apply, for the purpose of securing the rapid, accurate and practical application of the basis of divisions prescribed by the Commission, can not be perfected for several months, and the Southwestern respondents which did not join in this suit can make substantially as close an approximation as could be made, if no stay order were in effect, during the time which will be consumed by the pendency of this appeal; that the appellants have joined with the other Southwestern respondents and the Western Trunk Line respondents, since the decision of this case by this Court, in working out the details which, as briefly outlined above, must necessarily be worked out, before the said orders of the Commission can be practically applied to the division of the revenues from the said rates; that the appellants, in order to avoid delay, joined in the said work, with the reservation that the said divisions, as to them, should apply only if the decision of the Supreme Court of the United States should be adverse to them; that the said work has been diligently prosecuted, but it will be several months before the same can be completed; that, for the reasons above stated, appellants state that the Southwestern respondents which did not join in this [fol. 1744] suit can make substantially as close an approximation of the amounts due from them to the Western Trunk Lines as could be made at this time if the said stay order were not in effect; that, as already explained, the fact that two divisional bases must be applied to the said traffic cannot be urged by the said interveners as a matter which would be obviated by the vacation of the said stay order because the orders of the Commission contemplate that there shall permanently be two bases of divisions applying to the traffic between the Western Trunk Line region and the Southwestern region; that the appellees can have the hearing of the appeal in this case expedited, if they so desire, and appellants will cooperate for the purpose of securing an early hearing, before the end of the present term; that the minimum of inconvenience and confusion will be obtained in the meantime, by continuing the said stay order in effect, and confining such

confusion as there may be to the Southwestern respondents which failed to join in this suit, instead of extending it to all the Southwestern railroads.

2. Appellants state, with reference to paragraph 2 of the said interveners' statement, that if the said order of the Court is not vacated there will not (as claimed by the interveners) be imposed upon the Western Trunk Lines the obligation of keeping a record of shipments moving subsequent to November 30, 1929, to which the said orders of the Commission apply, if by the said allegation it is meant that a record must be kept in addition to the records which are customarily kept. Appellants allege that it will not be necessary and will not accomplish any saving of time or labor, to keep such a record; that if the orders of the Commision should be sustained by the Supreme Court of the United States, the difference in amount of divisions due to the Western Trunk Lines can be as easily computed from the original records which are necessarily kept by the carriers as if a special record were kept; that in any event, only approximations of the divisional bases [fol. 1745] prescribed by the Commission could be made at this time and it would later be necessary to correct the said original records in accordance with the detailed bases finally determined upon between the parties.

3. Appellants, with reference to paragraph 3 of the said interveners' statement, allege that, should the said stay order of the Court be vacated but the said orders of the Commission be held to be invalid by the Supreme Court of the United States, all the railroads participating in the said traffic, including the Western Trunk Line appellees, and Eastern carriers, as well as appellants, will have been put to a large amount of useless expense, and appellants allege further that there will necessarily be a great deal of confusion if the said orders of the Commission become effective, for the reason, as already stated, that a large number of railroads in the Southwestern territory and Western Trunk Line territory were not made respondents in the said proceeding before the Commission, and also, because the basis of divisions prescribed by the Commission has not yet been put in shape for practical application.

4. Appellants allege, with respect to the allegations contained in paragraph 4 of interveners' statement, to the effect that the situation as it existed prior to December 1, 1929, is not continued in effect subsequent to the said date by virtue of the said stay order of the Court, that such condition is continued in effect in so far as appellants are concerend; and that the Southwestern respondents which did join in this suit can make as substantial compliance with the said orders of the Commission as if the said stay order were not in effect.

5. Appellants, with reference to paragraph 5 of the said interveners' statement, allege that the nine railroads in Southwestern territory which were respondents in the said proceeding and which did not join in this suit are, in addition to the Kansas, Oklahoma & Gulf Railway Company, parts of the systems of The Atchison, Topeka and Santa Fe Railway Company, The Chicago, Rock Island & Pacific Railway Company, and the Illinois Central Railroad Company, all of which are solvent and fully able to respond [fol. 1746] in damages for any amounts which may be due from them to the said interveners; and that ample and adequate remedies are provided for the enforcement of orders of the Interstate Commerce Commission.

6. With reference to paragraph 6 of the said interveners' statement, which apparently is a statement of legal conclusions, appellants allege and are prepared to show that there are important and novel questions presented by the assignment of errors herein, and concerning which it cannot be fairly claimed by interveners that there is no serious doubt.

7. With reference to paragraph 7 of the said interveners' statement, appellants allege that they will sustain irreparable injury if the said stay order entered herein is vacated and set aside and they are required to comply with the said orders of the said Commission, provided the said orders are not sustained in the Supreme Court of the United States; and they allege further that there is grave danger that they would not be able to recover from the Western Trunk Line railroads which are in receivership (and possibly certain other Western Trunk Line railroads) any

amounts paid to the said railroads under the said orders of the Commission during the pendency of the said appeal.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Appellants.

[File endorsement omitted.]

[fol. 1747] IN UNITED STATES DISTRICT COURT

AFFIDAVIT OF L. J. SICKEL—Filed Jan. 22, 1930

STATE OF MISSOURI,
County of Jackson, ss:

L. J. Sickel, of lawful age, being first duly sworn, on his oath deposes and says that he is Assistant General Freight Agent of the Missouri Pacific Railroad Company; that he is also Chairman of the Southwestern Committee on the subject of this divisions litigation; that he is familiar with the matters and facts stated in Paragraphs 1, 2 and 5 of the objections to jurisdiction, and, subject thereto, statement of showing to be made at the hearing on January 22, 1930, by appellants, in opposition to the motion of the intervening Western Trunk Line appellees for the vacation of the order entered by the court on November 29, 1929, stying the operation and enforcement against appellants of the orders of the Interstate Commerce Commission in Docket No. 15234 pending the appeal to the Supreme Court of the United States presented in this cause; and that the matters and facts therein stated are true as he verily believes.

L. J. Sickel.

Subscribed and sworn to before me this 22" day of January, 1930. My commission expires Apr. 2, 1931. G. T. Aughinbaugh, Notary Public Within and for said County and State. (Seal.)

[File endorsement omitted.]

[fol. 1748] IN UNITED STATES DISTRICT COURT

AFFIDAVIT OF W. G. BUECHNER—Filed Jan. 22, 1930

STATE OF MISSOURI,
County of Jackson, ss:

W. G. Buechner, of lawful age, being first duly sworn, on his oath deposes and says that he is Auditor of Revenues of the Kansas City Southern Railway Company, and has held such position or a similar position with a different title with said company for over eleven years. Affiant further says that he has read objections to jurisdiction, and, subject thereto, statement of showing to be made at the hearing on January 22, 1930, by appellants, in opposition to the motion of the intervening Western Trunk Line appellees for the vacation of the order entered by the court of November 29, 1929, staying the operation and enforcement against appellants of the orders of the Interstate Commerce Commission in Docket No. 15234 pending the appeal to the Supreme Court of the United States; that he is familiar with the matters and facts stated in Paragraphs 1, 2 and 5 on Pages 2, 3, 4, 5 and 6 of said document; and that the matters and [fol. 1749] facts stated in said paragraphs 1, 2 and 5 of said document are true and correct as this affiant verily believes.

W. G. Buechner.

Subscribed and sworn to before me this 22" day of January, 1930. G. T. Aughinbaugh, Notary Public Within and for said County and State. My commission expires Apr. 2, 1931. (Seal.)

[File endorsement omitted.]

[fol. 1750] IN UNITED STATES DISTRICT COURT

ORDER EXTENDING TIME TO FILE TRANSCRIPT OF RECORD AND TO DOCKET CASE—Filed Jan. 22, 1930

For good cause shown, upon application of Appellants, the time in which to file the transcript of the record in the above cause in the Supreme Court of the United States and

to docket the said cause therein, is hereby extended to the tenth day of February, A. D. 1930.

Dated January 22nd, 1930.

Archibald K. Gardner, U. S. Circuit Judge. Albert L. Reeves, U. S. District Judge. Merrill E. Otis, U. S. District Judge.

O. K. Elmer B. Collins, Edward M. Reidy, Solicitors for the United States of America and the Interstate Commerce Commission, Appellees.

O. K. F. H. Towner, Solicitor for William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago, Great Western Railroad Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company, W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, Appellees.

[File endorsement omitted.]

[fol. 1751] In United States District Court

Order Overruling Motion to Set Aside Order Staying Order of Interstate Commerce Commission—Filed Feb. 3, 1930

This day this cause came on for hearing upon the motion filed by Wm. W. Wheelock and Wm. G. Bierd, Receivers of The Chicago and Alton Railroad Company, et al., Intervening Defendants and Appellees, in the above entitled cause, for an order vacating, annulling and setting aside the order made and entered herein by the Court, on November 29, 1929, staying the enforcement, against the appellants herein, of the orders made by the Interstate Commerce Commission in its Docket No. 15234, pending the deter-

mination of the appeal of this cause to the Supreme Court, the said Wm. W. Wheelock and Wm. G. Bierd, Receivers of the Chicago and Alton Railroad Company, et al., Intervening Defendants and Appellees, appearing by their counsel, Messrs. F. H. Towner, K. F. Burgess and P. F. Gault, the United States of America and the Interstate Commerce Commission appearing by their counsel, Mr. E. M. Reidy and joining in said motion, and the appellants appearing by their counsel, Messrs. F. H. Moore, W. E. Davis and A. F. Smith,

And the Court, after considering the said motion, and the showing and arguments, made by the parties hereto, and being fully advised in the premises, finds that, although all of the railroad companies, including the appellants, which were named as respondents in the proceeding before the Interstate Commerce Commission known as Docket No. 15234, have, since the decision of this cause by this Court, worked diligently for the purpose of ascertaining and agreeing upon the percentages for the division of revenue in accordance with the Commission's said orders, the ap- [fol. 1752] pellants joining therein in order to avoid delay if the said orders of the Commission should be sustained upon appeal to the Supreme Court, a great number of matters must be agreed upon, calculations made and details settled, before the percentages for the division of the revenue from the traffic here involved, between the many points of origin and destination on the lines of respondents in Western Trunk Line territory and Southwestern territory can be established, for practical application in the division of the said revenue; that the said work can not be completed for several months from this date, and until it is completed, a strict application of the said divisional basis prescribed by the Commission would be impossible, even if the said stay order were vacated; that, in so far as complaint is made by the said William W. Wheelock, et al., of two divisional bases, the Court finds that two divisional bases, each applying to a large amount of traffic between Western Trunk Line territory and Southwestern territory, would be a necessary result of the orders of the Commission if the same should go into effect, for the reason that the divisions prescribed by the Commission apply only to the traffic from or to points on the lines of the Southwest-

ern respondents to or from points on the lines of the Western Trunk Line respondents, or passing over the lines of such Western Trunk Line respondents to or from certain Eastern territory, and there are a large number of railroads in both Western Trunk Line territory and Southwestern territory which were not made respondents in the proceeding before the Commission, and to and from whose stations the said divisions do not apply; that the railroads can, and do, at times, apply two bases of divisions even in dividing the revenue received from a single shipment of freight; that therefore, for the reasons stated, the confusion and difficulty of which the said William W. Wheelock, et al., complain would not be obviated by the vacation of the said stay order, but would be increased; that such confusion as there may be will be reduced to a minimum, and a large amount of useless expense and labor, as to all parties, will be avoided, if the said stay order is continued in force pending the appeal of this cause to the Supreme Court, [fols. 1753 & 1754] whether such appeal shall be successful or not; that as substantial compliance with the said orders can be made, as to the Southwestern respondents which were not parties to this suit, as could be made if the said stay order were not in effect; that it is not necessary, and will accomplish no practical purpose, for William W. Wheelock, et al., to keep a special record in addition to the records customarily kept; that, pending said appeal, the status quo can and should be preserved, as between the parties to this suit, and the inconvenience and expense of all the said respondents will thereby be reduced to a minimum; that none of the respondents in the said proceeding need violate either the said stay order or the said orders of the Commission, if it endeavors in good faith to comply therewith; that the Court has considered the other reasons assigned in the said statement of William W. Wheeelock, et al., and that the same are substantially disposed of by the above findings and are without merit; that the Court has again carefully considered the findings contained in its said order entered herein on November 29, 1929, in view of the showing and arguments made upon this motion, and reaffirms all of the findings and conclusions upon which the Court based its order in granting the said stay;

It is, therefore, ordered, adjudged and decreed that the said motion that the said stay order be vacated be, and it is hereby denied.

January 22, 1930.

Archibald K. Gardner, United States Circuit Judge.
Albert L. Reeves, Merrill E. Otis, United States District Judges.

[File endorsement omitted.]

[fol. 1775] In United States District Court

Supplemental Præcipe for Record—Filed Feb. 3, 1930

To the Clerk:

In preparing transcript of the record in the above-entitled cause matter of the appeal of The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, The Galveston, Harrisburg, and San Antonio Railway Company, Houston and Shreveport Railroad Company, Houston & Texas Central Railroad Company, The Houston East and West Texas Railway Company, International-Great Northern Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Railway & Navigation Company, Louisiana Western Railroad Company, Missouri-Kansas-Texas Railroad Company, Missouri-Kansas-Texas Railroad Company of Texas, Missouri Pacific Railroad Company, Morgan's Louisiana and Texas Railroad and Steamship Company, New Orleans, Texas & Mexico Railway Company, The St. Louis, Brownsville and Mexico Railway Company, St. Louis-San Francisco Railway Company, St. Louis, San Francisco and Texas Railway Company, St. Louis Southwestern Railway Company, St. Louis Southwestern Railway Company of Texas, San Antonio & Aransas Pass Railway Company, Texas and New Orleans Railroad Company, and The Texas and Pacific Railway Company, petitioners and appellants herein, please include therein (in addition to the matter specified in appellants' original præcipe herein), in the order given below, the following matter, viz:

[fol. 1756] 1. Motion for order vacating order staying Interstate Commerce Commission's orders in its Docket No. 15234 and interveners' statement of showing accompanying said motion.

2. Objections to jurisdiction of Court to hear and decide motion to vacate order for stay, and counter-statement of showing by appellants.

3. Affidavit of L. J. Sickel in support of appellants' counter-statement of showing.

4. Affidavit of W. G. Buechner in support of appellants' counter-statement of showing.

5. Order denying interveners' motion to vacate stay of Interstate Commerce Commission's orders.

6. Order directing Clerk to certify original exhibits to Supreme Court.

7. Order and certificate approving condensed statement of evidence in narrative form.

8. Stipulation as to contents of certain tariffs referred to in hearing before Interstate Commerce Commission.

9. Order of January 22, 1930, extending time to file transcript and to docket case.

10. Supplemental præcipe for record and acknowledgment of service or concurrence therein.

F. H. Moore, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Appellants.

[fol. 1757] The undersigned concur in the foregoing supplemental præcipe for record and receipt of a copy thereof is hereby admitted and acknowledged upon the dates shown below.

United States of America, by Elmer B. Collins, Special Assistant to the Attorney General, January 30, 1930. Interstate Commerce Commission, by Edward M. Reidy, Asst. Chief Counsel, January 27, 1930. William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago Great Western Rail-

road Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company, W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, by F. H. Towner, January 27th, 1930.

[File endorsement omitted.]

[fol. 1758] IN UNITED STATES DISTRICT COURT WESTERN DISTRICT OF MISSOURI, WESTERN DIVISION

In Equity. No. 1363

THE BEAUMONT, SOUR LAKE AND WESTERN RAILWAY COMPANY et al., Petitioners,

vs.

UNITED STATES OF AMERICA and INTERSTATE COMMERCE COMMISSION et al., Defendants

Before Gardner, Circuit Judge, and Reeves and Otis, District Judges

MEMORANDUM OPINION—Filed Nov. 19, 1929

GARDNER, Circuit Judge, delivered the opinion of the Court:

This is a suit to enjoin and set aside an order of the Interstate Commerce Commission entered "In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories, I. C. C. Docket 15234", which fixes a new basis for the divisions of joint rates applying on traffic between points in the southwestern and western trunk line territories, and of rates applying on traffic between points in southwestern territory and eastern territory but passing through western trunk line territory.

[fol. 1759] The Interstate Commerce Commission on its own motion, under date October 8, 1923, instituted an investigation for the purpose of determining whether the

divisions of freight rates and charges in Western and Mountain-Pacific territories were and for the future would be unjust, unreasonable, inequitable or unduly preferential or prejudicial as between the various carriers made respondents in the proceeding. By supplemental or additional orders other carriers were made respondents, and during the course of the proceedings an agreement was reached by the interested parties with respect to division of joint rates between points in Western Trunk Line territory and points in Pacific Coast territory. Thereafter the investigation was limited to divisions in the aggregate north and south of Kansas City and St. Louis, Missouri, and East St. Louis, Cairo, Gale and Thebes, Illinois, respectively, of joint rates between points in Western Trunk Line territory generally east of the Missouri River and points in the southwest.

A certified copy of the testimony taken by the Commission at the hearings held in the territories involved has been offered and received in evidence in this case. The Western Trunk Lines sought increases in their divisions and these demands were resisted by the Southwestern Lines. As the result of this hearing the Commission found that [fol. 1760] the divisions of joint rates on freight traffic in general between points in the Western Trunk Line territory, and points in the Southwest territory were unreasonable, and fixed a new basis for such division.

On petition for rehearing, the Commission, with some modifications, denied the petition and filed a report setting out the reasons for the modifications made and why the rehearing and reargument was denied, and final order was thereafter, on June 10, 1929, entered. It is to enjoin the enforcement of this order that the present suit is brought.

It may be said that by the new division fixed by the Commission's order, a higher percentage of joint rate is awarded the Western Trunk Line carriers than was received by them under the division theretofore in effect.

Certain evidence has been offered on behalf of petitioners and received subject to the objections of respondents. We think the evidence was properly received and should be considered.

At the very threshold of this controversy it seems necessary to consider the scope or limitation of the Court's juris-

diction. This is not a proceeding of which this Court would ordinarily have original jurisdiction. As a condition precedent to a consideration of the issues here presented, they [fol. 1761] must first have been presented to and passed upon by the Interstate Commerce Commission, which Commission has the power and jurisdiction to determine the preliminary and fundamental question of what is a just, reasonable and equitable division of a joint rate. It has been said by the Circuit Court of Appeals of this circuit that the question of "just, reasonable and equitable division for the future is a legislative question which only the Commission may determine." What then can this Court consider in determining the validity of the order in question?

The original proceeding instituted by and before the Commission finds its statutory authority in Section 15 (6) of the Interstate Commerce Act. Title 49, Section 15 (6) U. S. C. A. This section in part reads as follows:

"Whenever, after full hearing upon complaint or upon its own initiative, the Commission is of the opinion that the divisions of joint rates, fares, or charges, applicable to the transportation of passengers or property, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established), the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, * * *. In so prescribing and determining the divisions of joint rates, fares, and charges, the Commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay [fol. 1762] their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare of charge."

Manifestly the determination of the ultimate issue was the reasonableness of the division of the joint rates between the carriers. This determination is a question on which the finding of the commission is conclusive if supported by substantial evidence, unless there was some irregularity in the proceeding, or some error in the application of the rules of law. Skinner & Eddy Corp. v. United States, 249 U. S. 557; New England Divisions Case, 261 U. S. 184.

The Commission is not required to conform to the rules governing the weight or effect of evidence and the admission of evidence which in judicial proceedings would be incompetent, does not invalidate its orders. This Court cannot, therefore, weigh the evidence, nor substitute its judgment for that of the Commission, nor inquire into the soundness of the Commission's reason, nor the wisdom of its decision, but is limited to an inquiry as to whether or not the order is supported by substantial evidence, or whether there was some irregularity in the proceeding, or some error in [fol. 1763] the application of the rules of law. Western Chemical Co. v. United States, 271 U. S. 268; Assigned Car Cases, 274 U. S. 564; United States v. New River Co., 265 U. S. 533.

As was said by the Supreme Court in Assigned Car Cases, supra, "These are matters left by Congress to the administrative tribunal appointed by law and informed by experience." The jurisdiction formerly vested in the Commerce Courts and now vested in this Court, is confind to determining whether there had been violations of the Constitution or the power conferred on the Commission by statute, or an exercise of such power so conferred so arbitrarily as to virtually transcend the authority conferred. Kansas City So. v. United States, 231 U. S. 423.

It will thus be seen that the scope of inquiry in this Court is limited. The Court must approve or disapprove of the order of the Commission, and is without power to modify it, and it is likewise without power to review the Commission's findings of fact further than to determine whether there is substantial evidence to sustain the order. Unless, therefore, there were material errors of law or a want of substantial evidence to support the order, the petition in this case should be denied.

It is urged by the petitioners that the Commission performed a quasi-judicial function, and hence its action is subject to judicial review as to errors of law, including the [fol. 1764] charge of the insufficiency of the evidence or findings of fact. The respondents do not take serious issue with this contention, but insist that the Commission in performing that function met every requisite of the cases cited. It appears that a number of hearings were had, and a very voluminous record made comprising several thousand pages of transcript and nearly three hundred exhibits. The petitioners were given opportunity to be heard or introduce any pertinent or competent evidence which they might wish to offer. But notwithstanding the fact that the function performed was quasi-judicial it is not for this Court to weigh the evidence, nor to inquire into the wisdom or soundness of the conclusion reached by the Commission. Assigned Car Cases, supra. Interstate Commerce Commission v. U. P. RR. Co. 222 U. S. 541. Conceding that the petitioners had the right to a full hearing, it seems clear that they were given such a hearing.

It is next urged that the Commission's order should be set aside because the amount of revenue which will accrue to petitioners will not be as much as 17 to 20 per cent greater revenue per ton mile than the revenue accruing to the Western Trunk Lines, but will be not more than 9 per cent greater, whereas the Commission found that in 1924 it cost about 15% more per ton mile to transport freight in the southwest than in the Western Trunk Line territory. Evidence other than that offered before the Commission was [fol. 1765] offered and received in this Court in support of this contention.

In support of this contention counsel have stressed one or two statements found in the opinion of the Commission. Attention is called to the fact that the Commission has determined the relative cost of service as a vital thing to be ascertained, and that the cost is approximated within certain limits so far as ascertainable. These two elements are then selected as the test and the only test for the basis of the order and it is contended that because the order does not in practical operation produce with mathematical accuracy the results anticipated by the Commission it should be set aside. It should be observed in this connection that in this attack

all other factors or elements are not only subordinated but eliminated and disregarded. While the relative cost of service in the two groups was a vital thing to be ascertained, it does not follow that the solution of the Commission's problem was dependent entirely, and only on this determination. Vital as this factor may have been, it does not follow that the result of the Commission's order should, in disregard of every other factor, mathematically produce a result which reflects the difference in the cost of service in the two groups. The Commission itself, on petition for rehearing, considered this question and in the second report it is said:

"There are other matters to be considered such as the efficiency with which the carriers concerned are operated [fol. 1766] and the importance to the public of the transportation service of such carriers, but all of these we took into consideration in summarizing the pertinent evidence. • • • We realized that the statistics were open to criticism in certain respects and resolved doubts in favor of the carriers whose revenues would be reduced by our finding, i. e., the Southwestern lines. The final result was not the product of statistics alone but was reached in the exercise of judgment after considering all of the pertinent evidence."

The finding of the Commission as to the relative cost of service was simply an approximation and purported only to be such, and the Commission's report does not indicate that the difference in the cost of service should be reflected in the distributin of revenue.

Counsel contend that the Commission found that "The Southwestern respondents are entitled to an average of 17 or 20 per cent greater revenue per ton mile of freight transported than are the Western Trunk Line respondents." This is not warranted by the actual finding of the Commission which is that "Cost of Service, including a fair return on investment, was somewhere in the neighborhood of 20 per cent greater in the Southwest than in the Western Trunk line group, based on averages of 1923-1924 operations, and somewhere in the neighborhood of 17 [fol. 1767] per cent greater based on 1924 operations."

Cost of service is not analogous to revenue per ton mile. Revenue per ton mile varies of necessity with the length of haul, and the cost of service is made up of the cost of

terminal operations, which is substantially the same regardless of the length of haul and the cost of line haul which varies materially with the length of haul. The combination of these factors produces the cost per ton mile, which varies with the length of haul, but not in direct ratio. Counsel are relying upon the so-called September, 1928, test. In passing it may be observed that this test may or may not have been typical. The time covered was confessedly short and there are many factors going into the compilation of the exhibit which purports to reflect the result of the operations for the period mentioned.

It is, however, observed that the average length of haul of the Southwestern lines, as reflected by this test, was a little more than 50 per cent greater than the average length of haul on the Western lines. If we may assume the same cost of service in both territories, still the cost per ton mile on traffic for the Southwestern lines would be materially less than the corresponding cost for the Western Trunk lines for the reason that there is a longer average haul in the Southwestern territory. Divisions based on cost of service would therefore yield the Southwestern lines the [fol. 1768] same revenue per ton mile for the longer hauls as the Western Trunk lines received for their shorter hauls, and hence, divisions which would yield the Southwestern lines on this traffic 9 per cent more revenue per ton mile than the Western Trunk lines, the result claimed under the test would reflect a cost of service in the Southwest higher than that in the Western Trunk line territory by much more than 9 per cent.

It seems clear that a formula using the cost per ton mile would, under the circumstances, produce a result unfair to the Western Trunk Lines because of the shorter average haul on these lines.

It is apparent that the Commission had this matter in mind. In its report it is said:

"Stated differently, under the existing divisional bases and judged by a mileage prorate, a mile in southwestern territory is worth on the average from 129 to 135 per cent of a mile in Western Trunk Line territory. Nor does this fully indicate the relative advantage of the southwestern lines, for a mileage prorate is *by no means a perfect method*

of dividing joint rates, even where transportation and other conditions do not differ materially. It results in the same ton-mile revenue for each participating carrier, *regardless of the length of haul and of the principle that, other things being equal, ton-mile yields should decrease as distance increases.*"

[fol. 1769] Bearing in mind that the showing reflecting the test of September, 1928, is prepared on the ton-mile basis, it would seem pertinent to observe what the Interstate Commerce Commission of the United States says on this question in New England Divisions Case, 126 I. C. C. 579, 667:

"A mileage pro-rate is an unsatisfactory test when the hauls are short on one side and long on the other. Throughout this proceeding both complainants and defendants have seemed to lose sight of the significance of relative lengths of haul, especially when referring to ton-mile yields. Such yields are continually compared in the briefs with no mention of the lengths of haul, without which the comparisons are meaningless."

The Commission was not permitted to base its decision as to divisions of joint revenue upon any one thing, either cost of service, necessity, density of traffic, or any other single fact or element. The statutes required the Commission to give due consideration to all factors, and the Commission's report shows affirmatively that it has done so in this case. As was said by the Supreme Court in the Louisville-Nashville case, 227 U. S. 188, "For the validity of the order does not necessarily depend upon the correctness of each of these findings, so that the breaking of one or many links by disproof would destroy the chain upon which the order depended."

[fol. 1770] We are clear that the validity of the order cannot be made to depend alone upon a division of revenue which would exactly reflect the approximate division in cost of service.

The Commission is a body informed as to railroad conditions and with railroad problems. As was said by the Supreme Court in O'Feefe v. United States, 240 U. S. 249,

"A tribunal such as the Interstate Commerce Commission, expert in matters of rate regulation, may be presumed to be able to draw inferences that are not obvious to others."

It is not for the Court to substitute its judgment for that of the Commission. As was said in Wallower v. United States, 32 Fed. (2d) 524, "The Commission is an expert body, with a national vision." In Virginia R. R. Co. v. United States, 272 U. S. 658, it is said: "This Court has no concern with the correctness of the Commission's reasoning, with the soundness of its conclusions, or with the alleged inconsistencies in findings made in other proceedings before it."

It is next contended that the order is void because it is based on averages, and does not take into consideration each individual carrier either on the basis of typical evidence or specific evidence, and in this connection it is urged that to make a divisional order valid the Commission must consider whether the divisions are just and reasonable [fol. 1771] from the standpoint of each carrier which participates in the joint rate. We think this contention is completely answered by the Supreme Court in New England Divisions Case, 261 U. S. 184.

It appears from the record that the hearings were conducted on the basis of a group proposition. No attempt was made to have the individual carriers treated separately. All witnesses purported to represent all of the Southwest carrier respondents. One of the witnesses who was in fact connected with the traffic department of the Santa Fe Railway says: "The Southwestern Lines, believing a history in so far as it is available, of the class rates * * * would be helpful in reaching a decision in this proceeding, submit the following: * * *." Another witness connected with the traffic department of the Missouri Pacific testified: "The Southwestern lines found it necessary to assign the testimony with respect to divisions to individual carriers, depending upon the gateways or states of the Southwest in which their line is more vitally interested. * * * My testimony will therefore include all of the interested Southwestern lines in connection with the divisions via the several gateways and Southwestern states previously mentioned."

These are indicative of the manner in which the peti-
[fol. 1772] tioners presented the case before the Commission. At no time during the proceedings before the Commission was any claim made that the Commission was without authority to deal with the case on a group basis. In fact, this question was not even presented to the Commission in the petition for rehearing. The suggestion that the petition filed asking the Commission to make additional Southwestern carriers parties was tantamount to an objection to the consideration of this matter on the group basis is, we think, without force. There is no claim in this petition that the Commission was without jurisdiction because it failed to name additional carriers, and the basis for the petition was that unless all the roads were made respondents, those which were respondents would have difficulty with their connections in arranging subdivisions of revenue in the event of an order by the Commission changing the divisions. Until the present action was commenced the petitioners did not indicate in any way that they objected to the handling of the case on a group basis. In the New England Divisions Case, supra, among other things, it is said:

"Obviously Congress intended that a method should be pursued by which the task which it imposed upon the Commission could be performed. The number of carriers which might be affected by an order of the Commission, if the power granted were to be exercised fully, might far exceed six hundred; the number of rates involved, many millions. [fol. 1773] The weak roads were many. The need to be met was urgent. To require specific evidence, and separate adjudication, in respect to each division of each rate of each carrier, would be tantamount to denying the possibility of granting relief. We must assume that Congress knew this; and that it knew also that the Commission had been confronted with similar situations in the past and how it had dealt with them. * * * That there is no constitutional obstacle to the adoption of the method pursued is clear. Congress may, consistently with the due process clause, create rebuttable presumptions. Mobile, Jackson & Kansas City R. R. Co. v. Tunipseed, 219 U. S. 35; Lindsley v. Natural Carbonic Gas Co., 220 U. S. 61; and shift the

burden of proof. Minneapolis & St. Louis R. R. Co. v. Railroad & Warehouse Commission, 193 U. S. 53. It might, therefore, have declared in terms, that if the Commission finds that evidence introduced is typical of traffic and operating conditions, and of the joint rates and divisions, of the carriers of a group, it may be accepted as prima facie evidence bearing upon the proper divisions of each joint rate of every carrier in that group. Congress did so provide, in effect, when it imposed upon the Commission the duty of determining the divisions. For only in that way could the task be performed. As pointed out in Railroad Commission of Wisconsin v. Chicago, Burlington & Quincy R. R. Co., 257 U. S. 563, serious injustice to any carrier could be avoided, by availing of the saving clause which allows any one to except itself from the order, in whole or in part on proper showing."

The Commission's order does not preclude independent Southwestern Lines from hereafter showing to the Commission any injustice that may result from its application. By its terms it is to remain in effect until the further order of the Commission. We are warranted in assuming that [fol. 1774] the order in this case is based upon evidence which the Commission assumed was typical in character and ample in quantity to justify the finding made as to each division of each rate of every carrier. It is well established that individual rates or divisions which are typical of all, afford a proper basis for a finding as to any one. The record in this case shows every essential mentioned by the Supreme Court in New England Divisions cases, 261 U. S. 184, Orient Divisions Case, 256 U. S. 274, and Brimstone Divisions Case, 276 U. S. 104.

All of the tariffs in effect at the time of the hearing were stipulated into the record before the Commission. The division sheets put in evidence the application of the divisions contained in these sheets to the rates carried in the tariffs as made in the case of individual shippers, were shown in detail, and evidence of this character was offered both by the representatives of the Western Trunk Lines and representatives of the Southwestern Lines.

It is to be noted that these documents so offered in evidence covered all car load traffic moving in June and Oc-

tober, 1924, over respondent's lines between Western Trunk Line territory and Southwestern territory and showed the total revenue, junction, originating and delivery line, commodity, origin, destination, weight, haul north and south of the junction, revenue as divided, revenue per carrier mile, [fol. 1775] tons hauled one mile, and similar statistical information. With respect to each respondent carrier these statements not only showed typical examples of each division of each rate of every carrier, but showed an actual cross-section of actual traffic moving in the two average months of 1924. In fact, it appears that the statements in evidence were of the same character as the September, 1928, test put in the record before this Court as Exhibit 10, on which the petitioners relied as adequately showing exactly what will happen under the new division prescribed by the Commission's order.

The record is replete with statistical information and statements showing rates and divisions applicable to individual commodities shipped in volume between the two territories. Much of this evidence is reflected in Exhibit I filed in this Court by petitioners. Of the 289 exhibits offered in evidence before the Commission, great numbers of them reflect the very details mentioned in the decisions relied upon by petitioners.

We think it clear that the Commission assumed that the record was ample in quantity and substantially typical to justify the order entered as to each of the carriers, and as before noted, the case would seem to be ruled by the New England Divisions Case, supra, and we think all other contentions of counsel with reference to this question are met [fol. 1776] and answered by the decision in the New England case and no good purpose would be served by a further consideration of the subject.

The contention that because all carriers having mileage in the Western Trunk Line territory and the Southwestern territory were not made respondents it was impossible for the Commission to make a group order, is answered by the decision in the New England case and the Orient Divisions case, supra. In neither of these cases were all the railroads made parties.

It is urged that there was no testimony before the Commission with regard to the importance to the public of the transportation services of each of respondents, and hence the order cannot be sustained, and that the order is not in the public interest. Paragraph 6 of Section 16 of the Interstate Commerce Act provides that the Commission shall give due consideration, among other things, to "The importance to the public of the transportation services of such carriers." The question of public interest would not be susceptible of direct proof but must be gathered from all the facts and circumstances, and is made up of many factors. The statements and exhibits put in evidence before the Commission would seem to reflect every aspect of the commercial importance of the transportation involved in the hearing. These exhibits include a series of maps showing the lines of the various roads, together with divisional [fol. 1777] groups in the two territories. A casual glance at these maps shows that practically all of the railroad mileage in the central section of the United States is operated by the carriers participating in the hearing. The exhibits show the vast amount of freight handled between the two territories. It appears that in the year 1925 the Western Trunk Line respondents operated over 48,000 miles of railroad and the Southwestern lines operated nearly 49,000 miles of railroad. That the property investment of the Western Trunk Lines was $3,432,475,212 and the property investment of the Southwestern line respondents was $3,403,862,855. That during 1925, the public paid the Western Trunk Lines $867,887,503 for transportation services performed, and likewise paid the Southwestern Lines $863,242,535 for transportation services performed. This is also shown for the three previous years. These lines furnished the railroad transportation in a region comprising nearly one-third of the area of the United States.

It would seem inevitably to follow from this testimony that the railroad transportation service involved was of the utmost public importance and would not require the direct testimony of any witness to this fact. It is a conclusion based upon the facts appearing in this record that cannot be escaped.

The Commission in its opinion says that it had taken into consideration all the circumstances mentioned by the statute so far as the record made it possible so to do. The public

[fol. 1778] being interested in the transportation service involved and the efficiency thereof, it may be assumed that the Commission, in making its order, had in mind that the public interest would be served, and this conclusion, whether wise or imprudent, is based upon evidence in the record and cannot be reviewed by this Court. The Commission found that the divisions were not just, reasonable nor equitable, and having so found, it was authorized under paragraph 6 of Section 15 of the Interstate Commerce Act, on public hearing to change the divisions so as to cure the injustice, unreasonableness and inequality found to exist. The Commission attempted at least by this order to cure this unlawful condition and such a change would certainly be in the public interest. The mere incidental fact that some of the Southwestern lines making a lesser rate of return than some of the Western Trunk Lines may lose money, is not a controlling factor. The same contention was made in the New England Divisions case, supra, in which the Supreme Court sustained the Commission's order.

A general charge that the proceeding was so arbitrary and contrary to the purposes of the Interstate Commerce Act as to be a denial of due process of law is argued by counsel, and in support of this contention it is urged that the order transfers revenue from less prosperous to more prosperous carriers. This has already been discussed and [fol. 1779] we think is controlled by the New England Divisions case. The Western Trunk Line carriers were found by the Commission to be in worse financial condition than the Southwestern Lines, and this finding is not challenged. The order only incidentially affects the revenues of the companies involved and was not entered for the primary purpose of assisting one group of carriers over another group of carriers, but to correct an inequitable and unreasonable division found to exist. Whether or not this order was ill-advised, or whether it will produce a systematic basis of divisions is not for this Court to determine, but was a matter committed by the statute to the judgment of the Commission. In our opinion, the order cannot properly be held to be arbitrary, but is based upon evidence upon which the judgment of the Commission might properly be exercised.

It is also urged by the petitioners that the Commission exceeded its authority in prescribing minimum divisions to

be received by the Western Trunk Line respondents. Paragraph 6 of Section 15 of the Interstate Commerce Act provides that, "The Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers." The Commission under this statutory authority was authorized to fix the divisions as it has done. The cases cited by counsel for petitioners [fol. 1780] do not involve divisions, and were in fact decided prior to the enactment of the Transportation Act of 1920.

It is to be observed that the Western Trunk Lines are not complaining of this action of the Commission fixing the minimum divisions that they may receive, and it would not seem to be a matter of which the Southwestern Lines can properly complain.

There is a suggestion that the order of the Commission is confiscatory as to the petitioners. This question does not seem to have been urged before the Commission, and the purpose of the order is not to take from one set of carriers revenue and transfer it upon another. The most that can be claimed as to the evidence on this point is that it shows that certain of the railroads earn less than five and three quarters per cent upon their total investment. This is not a sufficient basis for assailing the order in question, N. P. R. R. Co. v. Dept. of Public Works, 268 U. S. 39. There is no showing that the reduction in their share of revenue arising from traffic moving between the Western Trunk Line territory and the Southwestern territory will operate in any way to confiscate petitioner's property.

Petitioners urge that the refusal of the Commission to grant a rehearing was an abuse of discretion and a denial of due process of law. Ordinarily the granting or denying [fol. 1781] of a petition for rehearing is discretionary. It is apparent that the petition was given careful consideration and some modifications of the order were made pursuant to this application. It cannot be said that the proceeding is lacking in due process of law and the matter is not reviewable here.

The contention that the Commission went outside the record in entering its order is made and the Orient Division Case, 256 U. S. 274 and United States v. Abilene & So. Ry. Co., 265 U. S. 274, are cited in sppport of this contention. It is said by counsel that the Commission

assumed, without evidence, that the book value of the southwestern lines were on a less conservative basis than the book values of the carriers in the Central Western and Northwesten regions. What the Commission in fact said was that in Revenues in Western District, 113 I. C. C. 1, it had said that railroad book values in the southwest were on a less conservative basis than in the central west and northwest regions. The Commission does not so find in this case, and it would seem that it was warranted in referring to its own decisions here and it does not accept such finding as evidence in the case under consideration.

The argument of counsel is therefore based upon a misapprehension of the record. It is also contended that the Commission prescribed a rate prorate based upon percentages of the first class rates under the Southwestern rate [fol. 1782] scale, whereas that scale was not in evidence. But the Commission did not prescribe a rate prorate and it has answered this argument in its second report in answer to the petition for rehearing. There it is said: "This criticism rests upon a misunderstanding of what we did. Our formula was merely a method of adjusting the divisions to what we believed upon the evidence, to be a fair approximation of difference in conditions in the two territories." In other words, this was a part of the mechanism and not a part of the substantive evidence.

The decision was not bottomed upon the southwest scale, but it is the contention of the petitioners that the Commission had no authority to use the scale even as a mechanical device or method for dividing the rates in the proportion warranted by the facts, without first notifying the Southwestern Lines of their intention so to do. This suggestion is entirely without merit.

It is next urged that the Commission did not have before it evidence showing the cost of operation on respondents' lines confined to the Western Trunk Line territory. This argument is not based upon the assumption that the Commission went outside of the record, but that the evidence in the record did not justify the conclusion reached by the Commission. The statistics presented by both groups of carriers were system figures which included the investment and results of operation upon these lines outside of

[fol. 1783] those territories. This was unavoidable and a segregation was found to be impracticable. The point is referred to by the Commission in its second report in the following language:

"Reverting to the criticisms in the petition, we were compelled to use system statistics because the carriers were unable to segregate the interchange traffic and show the respective costs of service for that alone and no offer of such segregated costs is made in the present petition. Moreover, these system figures were voluntarily presented by both groups of carriers as pertinent and important evidence. We were also obliged to use system statistics which spread over into other territories, because of the difficulty of obtaining representative statistics closely confined to the two groups. The Western Trunk Lines did attempt such a segregation and we use the results as shown above as one of the checks upon our conclusions but the Southwestern Lines objected to these figures as not sufficiently representative."

Again the Commission, in its second report, says:

"We realized that the statistics were open to criticism in certain respects and resolved doubts in favor of the carriers whose revenues would be reduced by our finding, i. e., the Southwestern Lines. The final result was not a product of the statistics alone, but was reached after considering all of the pertinent evidence."

It is thus observed that the petitioners offered these statistics in evidence and the conclusion of the Commission is not confined to such evidence. The fact that the statistics cover systems might go to the weight of the testimony but not to its admissibility.

[fol. 1784] It is charged that the Commission went outside of the record in that it gave consideration to certain statistics of the Great Northern, Northern Pacific, Western Pacific and Union Pacific Railroads. Reference to these statistics is made in the second report of the Commission and they were referred to in response to charges made in the petition for rehearing to the effect that the operations of the Western Trunk Lines in territory west

of the Western Trunk Line territory were not carried on under as favorable conditions as were these operations in the Western Trunk Line territory. The use of the figures in the second report does not affect the merits of the Commission's order. The decision had already been made with respect to the divisions involved in this case.

The second report discussed the petition for rehearing and the grounds for denying same, but it modified its first report with respect to overhead traffic handling. These modifications were in no manner affected by the statistics quoted from the Great Northern, Northern Pacific, Western Pacific and Union Pacific roads. The Orient Divisions case relied upon by petitioners condemned the use of evidence necessary to establish the essetnial facts, when such evidence had not been properly introduced, but the statistics here referred to were not so used.

[fol. 1785] It is also claimed that the Commission went outside of the record in assuming that operating conditions upon certain parts of the Wabash and Illinois Central Railroads lying without Western Trunk Line territory were more favorable than operating conditions in Western Trunk Line territory. The matter is referred to by the Commission in its second report in the following words: "The Southwestern lines now object to this statement upon the ground that we assumed without evidence that conditions are more favorable in official territory than in Western Trunk Line territory and that the operations of the Illinois Central in the Mississippi Valley are conducted under more favorable conditions than its operations in Western Trunk Line territory." The first report made no such reference but did say that the Wabash extended beyond the eastern boundary of the Western Trunk Line territory into official territory with its more favorable operating conditions. The Wabash is shown to be an eastern line. In the Orient Divisions Case it is said: "The parts of the annual reports in question were used as evidence of facts which it was deemed necessary to prove, not as a means of verifying facts of which the Commission, like a court, takes judicial notice." Manifestly the Commission's reference to those operating conditions was in the nature of a criticism on the cost figures presented to the Commission, but notwithtsanding this criticism, the

[fol. 1786] figures were accepted. There was no necessity of any proof with respect to the operating conditions on the Wabash Railway in official territory, and the statement complained of did not constitute a finding and the decision is not dependent upon any such alleged assumption as to these operating conditions.

The contention that the density figures for 1927 referred to by the Commission in its first report were not in the record does not seem to be warranted by the record. The report of the Commission shows that "Upon the argument it was stipulated that we might refer in the decision of the case to reports on file with us which had been received since the close of the hearings. Such reports make it possible to compare traffic densities for 1927 computed in the same way as those shown above for 1924."

In the Commission's second report it is said: "The data referred to are incorporated in special reports now secured annually by our Bureau of Statistics. We believe that the stipulation was broad enough to cover these reports." Without further reference to the record, it seems sufficient to say that these records were properly before the Commission.

The propriety of using a mileage scale which assumes a decrease in unit cost as mileage increases, is challenged by counsel for petitioners. This question is not, in our opinion, properly before the Court for review. The Commission's decision in answer to a criticism of the method used, [fol. 1787] in its second report says: "As has already been explained, our rate prorate formula was adopted as a mechanism for dividing the joint rates in the proportions which we found justified by the facts of record. In our opinion it is an appropriate mechanism for that purpose." The argument of counsel is therefore apparently based upon a misapprehension of the use by the Commission of the rate prorate formula.

It is urged that the order should be set aside at least so far as the Chicago, Milwaukee, St. Paul & Pacific Railroad is concerned because that company is a reorganized company coming into being during the proceedings in this case. It succeeded the Chicago, Milwaukee & St. Paul Railway Company and took over the property of that company. The

Chicago, Milwaukee & St. Paul Railway Company went into receivership during the proceedings, and on April 12, 1927, the Chicago, Milwaukee, St. Paul & Pacific Railroad Company filed application with the Commission asking for authority to acquire control of the property of the old company, and this authority was granted January 4, 1928. The property of the two companies was identical and the objection is purely technical. The Chicago, Milwaukee, St. Paul & Pacific Railroad Company has made no objection. Even in the petition for rehearing this point was not urged and it cannot now be fairly considered as a ground for vacating the order.

The contention that the order is vulnerable because it [fol. 1788] prescribes the division of joint rates on traffic to and from points east fo the Indiana-Illinois state line is based upon a misapprehension. The order provides that the shares of joint rates on the overhead traffic shall be determined in accordance with the formula prescribed by the Commission. The oral evidence taken in this Court is to the effect that these rates divide on the Mississippi River and the revenue accruing to the carriers east of the river is eastern revenue and the revenue accruing to the carriers west of the river in western revenue, and that the roads receiving it are known as western carriers. In its first report the Commission held that on the overhead traffic in question the shares accruing to the western lines should be determined on a formula which the Commission prescribed. The order, particularly in connection with the oral testimony offered, is not uncertain, it does not purport to affect the revenue accruing to the so-called eastern lines, and hence it was not necessary that the eastern lines should have been made parties to the proceeding. There is no merit in this contention.

Charging that the decision of the Commission is based upon such incompetent and unreliable evidence and conjectures as to render it wholly void, counsel present an extended argument, citing many authorities. Many fragmentary portions of the Commission's decision are quoted, and many criticisms are indulged in, based upon the al- [fol. 1789] leged uncertainties of the Commission's decision. It is true that the Commission frankly admits that it

could not possibly reach a definite statement of relative cost of handling the particular traffic involved in the two territories. This was an impossibility which should not, however, deprive the Commission of its authority and duty to act. The Commission considered all the facts of record, which presumably were such facts as could be submitted by either group, and if the facts were not more definite it was due to the character of the testimony presented. The doctrine announced in the Northern Pacific Case, 268 U. S. 39, is not apposite. In that case an attack was made on an order of the Commission and the railroads were under the necessity of showing by specific proof applicable to the traffic affected by the order, that the rates were confiscatory. However, no such burden rested upon the Commission in the instant case. It presumably gave proper consideration to all the facts adduced and based upon these facts it rendered its decision. It is not suggested that more definite, satisfactory or persuasive evidence could have been offered. The Commission in its report says: "Obviously it is impossible to employ any mathematical formula which will operate with precision, and it is necessary to be guided by general judgment after considering and weighing as well as we can the evidence before us." This we [fol. 1790] take it properly describes the duty of the Commission, and presumably nobody was better qualified to act upon the evidence than this Commission, with its expert knowledge and "national vision."

As has already been noted, the Commission is not bound by technical rules of procedure or evidence, and it is not expected nor required that its decisions can be tested by any mathematically correct rules. It was therefore not incumbent upon the Commission to produce a definite, positive statement of the difference in cost of handling traffic in the two territories involved. Neither was it essential that it state the exact differences in the traffic density and weight to be attached thereto, but the Commission is endowed with power and authority to consider and weigh all the evidence, facts and circumstances, apply its expert knowledge and experience to the situation, and reach a conclusion and judgment based thereon.

We have carefully considered all of the other objections urged to the Commission's order, but a discussion thereof

would unduly extend this opinion. The Authority exercised by the Commission was so exercised in conformity to the requirements of due process of law, was within the broad discretion vested in the Commission, and its order is sustained and the petition dismissed.

[File endorsement omitted.]

[fols. 1791-1793] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 1794] Orders extending time to file transcript of record and to docket case to February 10, 1930, omitted in printing.

[fol. 1795] IN SUPREME COURT OF THE UNITED STATES

No. 642

STATEMENT OF POINTS TO BE RELIED UPON AND DESIGNATION TO PRINT ENTIRE RECORD—Filed Feb. 14, 1930

Come now the appellants and adopt their assignments of error as their statement of the points to be relied upon, and [fol. 1796] represent that the whole of the record as filed (not including the original exhibits which were sent up separately from the record) is necessary for the consideration of the case.

F. H. More, W. E. Davis, E. T. Miller, M. G. Roberts, J. R. Bell, G. H. Muckley, H. H. Larimore, C. S. Burg, J. R. Turney, Robert Thompson, Solicitors for Appellants.

Service of the foregoing statement of points to be relied upon and designation of the parts of the record to be

printed, by appellants, and receipt of a copy thereof are hereby admitted and acknowledged by the following:

The United States of America, by Elmer B. Collins, Special Asst. to the Attorney General, this 13th day of February, 1930. Interstate Commerce Commission, by Edward M. Reidy, Asst. Chief Counsel, this 13th day of February, 1930. William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, Chicago and North Western Railway Company, Chicago, Burlington and Quincy Railroad Company, Chicago, Great Western Railroad Company, Chicago, St. Paul, Minneapolis and Omaha Railway Company, Illinois Central Railroad Company, W. H. Bremner, Receiver of Minneapolis & St. Louis Railroad Company; Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and Wabash Railway Company, by Frank H. Towner, this 11th day of February, 1930.

[fol. 1797] [File endorsement omitted.]

[fol. 1798] IN THE SUPREME COURT OF THE UNITED STATES

No. 643

STATEMENT OF POINTS TO BE RELIED UPON AND DESIGNATION TO PRINT ENTIRE RECORD—Filed Feb. 21, 1930

In suport of their cross-appeal, the United States and the Interstate Commerce Commission will rely upon the following point:

The District Court erred in issuing a stay order, restraining enforcement of the Commission's orders of June 10, 1929, July 25, 1929, and September 24, 1929, pending appeal to and determination of the issues in the case by this Court.

Only the written opinion, and the "order for stay of the order of the Interstate Commerce Commission" respectively rendered and issued by the District Court, will be necessary [fol. 1799] in the consideration of the point raised by their

cross-appeal. The entire record, however, is being printed by appellants, the Beaumont, Sour Lake & Western Railway Company, et al., in connection with their appeal.

William D. Mitchell, Attorney General. John Lord O'Brian, Assistant to the Attorney General. Elmer B. Collins, Special Assistant to the Attorney General. E. M. Reidy, Assistant Chief Counsel, Interstate Commerce Commission.

Service of the foregoing Statement of Points, and receipt of a copy thereof are hereby admitted and acknowledged.

[fol. 1800] [File endorsement omitted.]

[Endorsed on cover:] File No. 34,773, 34,774. W. Missouri D. C. U. S. Term No. 642. The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, et al., appellants, vs. The United States of America, The Interstate Commerce Commission, et al. Term No. 643. The United States of America and The Interstate Commerce Commission, appellants, vs. The Beaumont, Sour Lake & Western Railway Company, The Fort Worth and Denver City Railway Company, et al. Filed February 8, 1930. File No. 34,773, 34,774.